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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.1503/95

Date of Order: 3.7.96

BETWEEN:

B.Shyamsunder

.. Applicant.

AND

1. Secretary, Central Board of Direct Taxes, North Block, New Delhi.
2. Competent Committee for grant of Rewards represented by the Chairman, Central Board of Direct Taxes, New Delhi.
3. Chief Commissioner of Income-tax, Andhra Pradesh, Hyderabad.

.. Respondents.

Counsel for the Applicant

.. Mr.G.V.R.S.Varaprasad

Counsel for the Respondents

.. Mr.V.Bhimanna

CORAM:

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

J U D G E M E N T

{ Oral order as per Hon'ble Shri R.Rangarajan, Member (Admn.) }

The applicant in this OA while working as Assistant Commissioner of Income-Tax did the assessment in a raid case pertaining to Anand Company and an ~~assessment was made~~ for the year 1983-84 by him under Section 143 (3) of the Income-Tax Act 1961. As against the returned income of Rs.2,19,433/- submitted by the said company the assessment for the year 1983-84 was completed on a total income of Rs.20,55,530/-. The assessment of the assessee was completed determining the status as "Firm not entitled for registration". This assessment was appealed against by preferring an appeal to the Commissioner Income-Tax (Appeals) against the assessment order passed by the applicant herein. The Commissioner of Income-Tax (Appeals) II Hyderabad

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by an appeal order dated 25.3.87 allowed the assessee's appeal by directing the Income-Tax Officer to grant registration to the appellate firm and also granting relief of Rs.1,33,872/- in the total income. Thus the total income was assessed to be about Rs.19,00,000/-. The applicant vide his letter dated 1.4.88 submitted a representation that he and his staff worked with him during 1985-86 are eligible for grant of reward for the assessment done in the case of M/s. Anand Samrat & Co. on 27.3.87 in terms of the letter No. 414/10/831-(2-II), dated 6.11.85 (A-VIII). Since the addition was more than Rs.19,00,000/- which was also confirmed even by Income Tax appellate Tribunal and a prosecution was also launched against the assessee on 31.3.88 and a case was registered as 135 of 1988 the applicant submitted that he had fulfilled all conditions as per letter dated 6.11.85^{and} hence he is entitled for award. The applicant filed another representation dated 28.10.93 requesting R1 to grant him the award under the "scrutiny category" as per the circular dated 6.11.85 (A-VIII). (In this representation also he submitted that as the additions to income returned or deemed to have been returned is more than Rs.50,000/- which was upheld by the Commissioner of Income Tax (Appeals) and also a prosecution has been launched against the defaulting firm, he fulfills the condition laid down under para 2(b) of the scheme and hence he is entitled for the reward. His representation was replied by the impugned order No. F.No.C.C. (B&S)/24(25)/89-90 dated 6.4.95 rejecting his claim for grant of award under rule 2(b) of the reward scheme 1985.

2. Aggrieved by the above he has filed this OA for setting aside the impugned order No. F.No.C.C. (B&S)/24(25)/89-90 dated 6.4.95 (A-I) issued by R3 holding it as highly illegal, arbitrary and contrary to the provisions of Reward Scheme 1985 and for a consequential declaration that he is eligible for the grant of said reward.

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3. The main contention of the applicant is that the scheme of reward under rule 2(b) is applicable to him in this case as he has assessed the additions to the returned income of M/s Anand Samrat and Company and the conditions laid down in para 2(b) has been fulfilled. Further he submits that he is eligible for the reward as it was made after 1.4.85 in terms of the instructions of 1985.

4. The respondents have filed a reply contesting the prayer of the applicant. The main contention in as seen from the reply statement is that the assessment is not "the special contribution of the applicant nor there was any better performance". The reason is that the applicant was to assess the income on the basis of the documents material seized in a search by a team of officers. Hence the applicant is not entitled for the contribution under para 2(b) of the scheme. It is the further contention of the respondents which was advanced during the course of the argument on date that the grant of reward in this case comes under 2(c) scheme i.e. search and seizure and not under 2(b) which is for under scrutiny awards. But this contention has not been taken in the reply statement.

5. Before going into the analysis of the case it is preferable to reproduce the impugned letter dated 6.4.95. The relevant portion of the said letter reads as below:-

"With regard to your reward claim in the case of M/s. Anand Samrat & Co., Secunderabad, I am directed to inform you that the matter has been considered carefully and you are not found fit for grant of reward under Rule 2(b) of the Reward scheme, 1985".

A reading of the above relevant portion will indicate that the applicant has not done any extraordinary work for grant of reward under Group ^{2(b)} of Reward Scheme 1985. Though the learned standing counsel submitted that the Rule 2(b) of the present scheme is not applicable in the case and hence it was rejected

by the impugned order, there is no evidence to show in the impugned letter that such a review was taken by the competent authority. In my opinion that the possible interpretation to this letter is that the applicant's performance for the scrutiny was not adequate and hence he cannot be given the award even though the present case falls under rule 2(b) of the Reward Scheme 1985.

6. In the reply statement nowhere it is stated that the scrutiny of the incometax of M/s Anand Samrat & Co., is done under the reward scheme 2(c) and not under 2(b) though the applicant in his OA keeps on emphasising that the scheme falls under rule 2(b) of the reward scheme. When there is no proper denial of the contention made by the applicant in the OA that the case falls under rule 2(b) of the reward scheme 1985 it has to be held that the contention made by the applicant is in order and the respondents have nothing to say against that claim. Further a reading of para 4 of the reply statement will clearly indicate that the denial of the reward to the applicant is that the contribution of the applicant in the assessment of the company was nothing special and no better performance was shown by him in that connection. In this para also nowhere it is brought to the notice of the court that the reward is to be given under rule 2(c) of the scheme and as the applicant claimed the reward under rule 2(b) of the scheme ^{he} is not entitled for the reward.

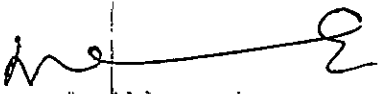
7. In view of the above, the contention ~~(that the present)~~ case comes under para 2(c) of the scheme cannot be upheld. The applicant having fulfilled all the conditions as laid down in the reward scheme of 1985 under para 2(b) of the scheme he has to get the reward in accordance with the scale prescribed by the department. If the reward has to be shared amongst those who undertook the scrutiny of the assessment, the rule as laid down by the department for sharing the reward money

has to be adhered to.

8. The next contention of the respondents is that the reward scheme is purely an ex-gratia payment and it is the Committee's discretion finally and hence the applicant cannot contend the same in a court of law or in C.A.T. The above contention was considered. The reward and punishment schemes form part and parcel of service carrier of an employee. When an employee defaults to carryout his assigned duties he is punished. Similarly when he performs his work in excellent fashion he is compensated for better peformance by awarding a certificate or by other monetary awards. In this reward scheme has been introduced as a scheme to give some monetary awards to the employees and hence it cannot be said that when such monetary awards are denied, he cannot challenge the same in a court of law. The above interpretation is also in accordance with the definition of the service matter in the C.A.T. rule. Renumeration is one of the item^{which} comes under service matter. Reward, being a remuneration, forms part of service matter and hence the employee has right to challenge if such remuneration is not given. Hence this contention also fails.

9. In the result, the OA is allowed and R1 is directed to grant him the award as prayed for by him in accordance with the scales prescribed by the department under the scheme. Time for compliance is 4 months from the date of receipt of a copy of this order.

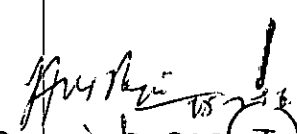
10. O.A. is ordered accordingly. No costs.


(R. RANGARAJAN)
Member (Admn.)

Dated: 3rd July, 1996

(Dictated in Open Court)

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DY. Registrar (J)

Contd...

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O.A.NO.1503/95

Copy to:

1. Secretary, Central Board of Direct Taxes,
North Block, New Delhi.
2. The Chairman,
2. Competent Committee for Grant of Rewards,
Central Board of Direct Taxes,
New Delhi.
3. Chief Commissioner of Income Tax,
Andhra Pradesh,
Hyderabad.
4. One copy to Mr.G.V.R.S.Vara Prasad, Advocate,
CAT, Hyderabad.
5. One copy to Mr.V.Bhimanna, Addl.CGSC,CAT,Hyderabad.
6. One copy to Library,C&T,Hyderabad.
7. One duplicate copy.

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OA 1503/95
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APPROVED

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN: M(A)

DATED: 3-7-96

ORDER/JUDGEMENT
O.A. NO./R.A./C.P. No.

in
O.A. NO. 1503/95

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED
DISPOSED OF WITH DIRECTIONS
DISMISSED
DISMISSED AS WITHDRAWN
ORDERED/REJECTED *accordingly*
NO ORDER AS TO COSTS.

YLKR

II COURT

No spare copy

