

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

OIA.No.1037 OF 1995.

Date of Order:4-5-1998.

Between:

C.Somayajulu.

.. Applicant

a n d

1. Union of India, rep. by its Under
Secretary, Ministry of Finance, Department
of Revenue, Central Board of Direct Taxes,
North Block, New Delhi.

2. The Chief Commissioner of Income Tax,
Andhra Pradesh, Ayakar Bhavan, Basheerbagh,
Hyderabad.

... Respondents

COUNSEL FOR THE APPLICANT :: Mr.V.Jogayya Sarma

COUNSEL FOR THE RESPONDENTS:: Mr.V.Rajeshwara Rao

CORAM:

THE HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN)

A N D

THE HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER (JUDL)

: O R D E R :

ORAL ORDER (PER HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER (J))

Heard Mr.V.Jogayya Sarma for the applicant and
Mr.V.Rajeshwara Rao for the Respondents.

2. The applicant has filed this O.A. for the following reliefs:-

- i) to call for the records relating to the issue of F.No.C-14011/30/87-V&L, dated:Nil signed by the Under Secretary(Shri Y.P.Vashishat), Govt. of India, Ministry of Finance, Department of Revenue, C.B.D.T., New Delhi communicated through Ref.No.Con.19/84, Vol.II/1065, dated 21-6-95 of the Chief Commissioner of Income Tax, AP., Hyderabad, and declare the same as illegal, void and without jurisdiction;
- ii) to declare that the findings of the Criminal Court are binding on the Departmental Proceedings and any finding by the Disciplinary authority ~~is~~ contra to the finding of the Criminal Court is illegal, void and without jurisdiction;
- iii) to declare that the procedure adopted in conducting the Departmental enquiry is vitiated because no proper opportunity was given to the applicant by giving him permission to be defended by a defence counsel; and
- (iv) compel the respondents to release the D.C.R.G. of the applicant with interest from the date of retirement of the applicant ie., 31-8-1987; and

3. The learned Counsel for the applicant submitted that with respect to the ^{same} charges a criminal case was filed in C.C.No.18/89 before the Court of the Special Judge for CBI cases, Visakhapatnam. The Court by ^{its} Judgment dated 2-4-1993, ~~the Court~~ held that the assets possessed by the applicant

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disproportionate to his known sources were not more than Rs.12,000/- and imposed a fine of Rs.5,000/-. Against the said Judgment and conviction the applicant has preferred an appeal in Criminal Appeal No.466 of 1993 and the same is pending before the Hon'ble High Court of Andhra Pradesh.

4. The learned Counsel for the applicant submits that while the criminal investigation is pending, simultaneously a departmental proceedings were initiated for the same charges and punishment of reduction of pension by 50% was imposed on him by an Order dated Nil which was communicated to him through the Chief Commissioner of Income Tax by letter dated 21-6-1995.

5. The learned Counsel for the applicant submitted that, liberty may be given to the applicant to withdraw this O.A. and to file a fresh O.A. after disposal of his criminal appeal in Criminal Appeal No.466 of 1993 and that the period spent by the applicant in prosecuting this O.A. from 28-8-1995 till the receipt of the Order passed by the Hon'ble HIGH COURT in Criminal Appeal No.466 of 1993 be excluded for the purpose of limitation.

6. The learned Counsel for the respondents stated that he has no objection.

7. Hence, we pass the following Order:-

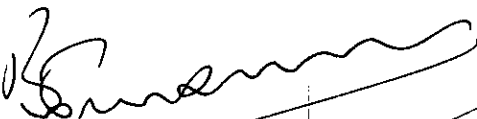
- (a) The applicant is permitted to withdraw this O.A. with a liberty to approach this Tribunal by a fresh application after disposal of the Criminal Appeal No.466 of 1993 pending before the Hon'ble High Court of A.P. for the same prayer as claimed in this O.A. ;

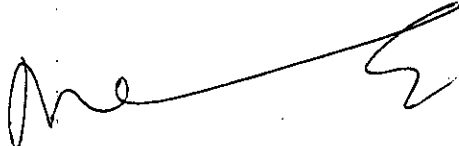
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(b) The period spent by the applicant from 28-8-1995 (date of presentation of this O.A.) till receipt of the Judgment in Criminal Appeal No.466 of 1993 shall not be counted for the purpose of limitation while considering the point of limitation in the fresh O.A. to be filed by the applicant.

8. With the above observations, the O.A. is disposed of.
No costs.

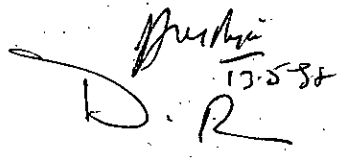

(B.S. JAI PARAMESWAR)
MEMBER (J)


(R. RANGARAJAN)
MEMBER (A)

Dated: this the 4th day of May, 1998

Dictated to steno in the open court

DSN


D. R.

DA. 1037/95

Copy to:-

1. The Under Secretary, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, North Block, New Delhi.
2. The Chief Commissioner of Income Tax, Andhra Pradesh, Ayakar Bhavan, Basheerbagh, Hyderabad.
3. One copy to Mr. V. Jogayya Sarma, Advocate, CAT., Hyd.
4. One copy to Mr. V. Rajeshwara Rao, Addl. CGSC., CAT., Hyd.
5. One copy to Mr. V. Rajeshwara Rao, Addl. CGSC., CAT., Hyd.
6. One copy to D.R.(A), CAT., Hyd.
7. One duplicate copy.

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