

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 19th day of November, 2009

REVIEW APPLICATION No.18/2008

IN

ORIGINAL APPLICATION No.89/2007

CORAM :

HON'BLE MR.M.L.CHAUHAN, JUDICIAL MEMBER
HON'BLE MR.B.L.KHATRI, ADMINISITRATIVE MEMBER

M.N.Verma
S/o Shri R.K.Verma,
R/o C-142, Trinity Towers,
DLF Phase-V,
Gurgaon (HR).

... Applicant

(By Advocate : Shri R.N.Mathur)

Versus

1. Union of India through
Secretary,
Ministry of Finance,
Department of Revenue,
Central Board of Direct Taxes,
Central Block,
New Delhi.
2. Deputy Secretary to the Govt.,
Ministry of Finance,
Department of Revenue,
Central Board of Direct Taxes,
Central Block,
New Delhi.

... Respondents

(By Advocate : Shri Gaurav Jain)

ORDER (ORAL)

The applicant has filed this RA for review of the order dated 24.4.2008, whereby OA 89/2007 was dismissed on the ground that the applicant had not filed any reply to the charge-

sheet and as such in view of the law laid down by the Apex Court in the case of Union of India & Anr. v. Ashok Kacker [1995 (7) SLR 430] the OA cannot be entertained.

2. At this stage, it is considered necessary to reproduce para-10 of the impugned judgement, which reads as under :

"10. In our considered view, the ratio decidendi of the Hon'ble Supreme Court in the case of Ashok Kacker (supra) holds good to the instant case. The memorandum gives an opportunity to the aggrieved applicant to file written statement of defence, which he has not done so far. No reply has seems to have been given to the charge sheet framed against the applicant. Further, no inquiry seems to have also started against the aggrieved applicant. We, therefore, consider that as has been stated in the aforesaid case, the applicant has not yet submitted his reply to the charge-sheet but has rushed to the Tribunal at the premature stage. Reply to the charge memo should have been submitted by the applicant and the inquiry must have also been faced by the incumbent. Since the inquiry having not yet started, the Disciplinary Authority has also not taken any action since no order of the inquiry officer has been passed. Consequently, we are forced to hold that the present OA is at a premature stage, having been filed hurriedly. We, therefore, have no hesitation to hold that the OA deserves to be rejected in limine, as not having been admitted."

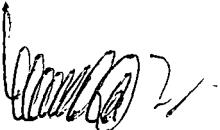
2. Learned counsel for the applicant has drawn our attention to para 4(xvi) of the OA, wherein it has been averred that immediately after issuance of the impugned memorandum dated 23.11.2006 the applicant had submitted a detailed representation on 23.1.2007 referring to the relevant facts and documents, which clearly show that the charges/allegations levelled against the applicant in the impugned memorandum are not only absurd and vexatious but also vitiated by extraneous consideration. The applicant had also annexed with the OA copies of the said representation dated 23.1.2007 followed by reminder dated 13.2.2007 as Ann.A/20 & Ann.A/21 respectively. Thus, according to learned counsel for the applicant, there is error apparent on the face of record and the finding recorded by this Tribunal that no reply to the charge-sheet had been filed

and as such the matter is premature in the light of the judgement rendered by the Apex Court in the case of Union of India & Anr. v. Ashok Kacker is uncalled for.

3. We have heard learned counsel for the parties. From perusal of para-7 of the impugned judgement, it appears that learned counsel for the applicant did not bring all the facts to the notice of the Bench. Be that as it may, the fact remains that the applicant has filed a detailed representation against the charge memo before the appropriate authority. As such, we are of the view that this is a case where the judgement has been delivered by this Bench without taking note of Ann.A/20 and Ann.A/21. As such, the order is required to be recalled. Ordered accordingly.

4. In the result, the OA stands restored to its original number and be listed for hearing on 16.12.2009. The RA shall stand disposed of accordingly.


(B.L.KHATRI)
MEMBER (A)


(M.L.CHAUHAN)
MEMBER (J)

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