

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Review Application No. 291/00015/2014

With

Misc. Application No. 291/00319/2014

In

ORIGINAL APPLICATION No. 124/2014

Date of order : 15.7.2014

CORAM :

**HON'BLE MR.ANIL KUMAR, ADMINISITRATIVE MEMBER
HON'BLE MR. M. NAGARAJAN, JUDICIAL MEMBER**

Mahipal Yadav son of Late Banwari Lal by caste Ahir (Yadav) aged about 57 years, resident of 13, Yadav Nagar, Nine Shope, Panipech, Jaipur-16. Presently working as Superintendent (Appeals-II) with the Commissioner Appeals, Jaipur.

... Applicant

Versus

1. Union of India through Secretary (Revenue), GOI, New Delhi.
2. The Chairperson, Central Board of Excise & Customs, North Block, New Delhi.
3. The Chief Commissioner, Central Excise (Jaipur Zone), Statue Circle, Jaipur.
4. The Commissioner, Central Excise Jaipur I, Statue Circle, Jaipur.
5. Ms. D.M. Durando, Joint Commissioner, C.E. Surat-II, Surat (Private Respondent).

... Respondent

ORDER BY CIRCULATION

The present Review Application has been filed by the respondents for reviewing/recalling the order dated 05th March, 2014 passed in OA No. 291/00124/2014 (Mahipal Yadav vs. Union of India & Others).

Anil Kumar

2. This Review Petition has been filed beyond the period of limitation and the applicant has filed a Misc. Application No. 291/00319/2014 for the condonation of delay. However, we are not convinced with the reasons given by the respondents for filing the Review Application beyond the period of limitation. Moreover, the Full Bench of the Andhra Pradesh High Court in the case of **G.Nara Simha Rao vs. Regional Joint Director of School Education** (W.P. 21738 of 1998), 2005 (4) SLR 720, has already held that the Tribunal has no jurisdiction to condone the delay by taking aid and assistance of either sub-section (3) of Section 21 of the Administrative Tribunals Act or Section 29(2) of the Limitation Act.

3. Further the Hon'ble Supreme Court in the case of **K. Ajit Babu & Others vs. Union of India & Others**, 1997 SCC (L&S), in Para No. 4 has held that:-

".....The right of review is not a right of appeal where all questions decided are open to challenge. The right of review is possible only on limited grounds, mentioned in Order 47 of the Code of Civil Procedure. Although strictly speaking Order 47 of the Code of Civil Procedure may not be applicable to the tribunals but the principles contained therein surely have to be extended. Otherwise there being no limitation on the power of review it would be an appeal and there would be no certainty of finality of a decision. Besides that, the right of review is available if such an application is filed within the period of limitation. The decision given by the Tribunal, unless reviewed or appealed against, attains finality. If such a power to review is permitted, no decision is final, as the decision would be subject to review at any time at the instance of the party feeling adversely affected by the said decision. A party in whose favour a decision has been given cannot monitor the case for all times to come. Public policy demands that there should be an end to law suits and if the view of the Tribunal is accepted the proceedings in a case will never come to an end. We, therefore, find that a right of review is available to the aggrieved persons

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on restricted ground mentioned in Order 47 of the Code of Civil Procedure if filed within the period of limitation."

4. Therefore, this Review Application is not maintainable as it is filed beyond the period of limitation. Accordingly, the Misc. Application No. 291/00319/2014 for condonation of delay stands dismissed.

5. Even on merit the present Review Application is not maintainable. By means of this Review Application, the applicant is trying to reopen all issues decided by this Tribunal passed in OA No. 291/00124/2014 (Mahipal Yadav vs. Union of India & Others) which is not permissible under the law for review proceedings.

6. The Hon'ble Apex Court has categorically held that the matter cannot be heard on merit in the guise of power of review and further if the order or decision is wrong, the same cannot be corrected in the guise of power of review. What is the scope of Review Petition and under what circumstance such power can be exercised was considered by the Hon'ble Apex Court in the case of Ajit Kumar Rath Vs. State of Orissa, (1999) 9 SCC 596 wherein the Apex Court has held as under:

"The power of the Tribunal to review its judgment is the same as has been given to court under Section 114 or under Order 47 Rule 1 CPC. The power is not absolute and is hedged in by the restrictions indicated in Order 47 Rule 1 CPC. The power can be exercised on the application of a person on the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was made. The power can also

Atul Kumar

be exercised on account of some mistake of fact or error apparent on the face of record or for any other sufficient reason. A review cannot be claimed or asked for merely for a fresh hearing or arguments or correction of an erroneous view taken earlier, that is to say, the power of review can be exercised only for correction of a patent error of law or fact which stares in the fact without any elaborate argument being needed for establishing it. It may be pointed out that the expression 'any other sufficient reason' used in Order XL VII Rule 1 CPC means a reason sufficiently analogous to those specified in the rule".

7. Therefore, the present Review Application is liable to be dismissed not only on the point of limitation but also on merit. We do not find any patent error of law or facts in the order dated 05.03.2014 passed in OA No. 291/00124/2014 (Mahipal Yadav vs. Union of India & Others). Therefore, in view of the law laid down by the Hon'ble Apex Court, we find no merit in this Review Application and the same is accordingly dismissed.

8. The Registry is directed to send a copy of this order to the respondents as the OA was decided at the admission stage itself.

ஏ.நாராஜன்
(M. Nagarajan)
Member (J)

Anil Kumar
(Anil Kumar)
Member (A)

AHQ