

(SEE RULE -4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI
....

ORDER SHEET

Original Application No : _____

Misc. Petition No. _____

Contempt Petition No. 44 / 02 in O.A. 76/02

Review Application No. _____

Applicant (s) Dr. J.K. Goyal

-Vs-
Respondent (s) H.O. I. Joms

Advocate for the Applicant (s) B.K. Sharma, S. Sharma, P.K. Dasgupta, U.K. Nair, Mrs U. Das.

Advocate for the Respondent(s) CBE A.K. Choudhury Add. case for Contemners No. 1, 2 and 3.

Notes of the Registry

Date

Order of the Tribunal

This Contempt petition has been filed by the counsel for the Respondent praying for wilful and deliberate violation of the interim order dated 10.4.02 passed by this Honorable Tribunal in O.A. 76/02.

20.9.02

Laid before the Honble Court for further orders.

lm

7.11.02

Sumit
19/10/02
Section Officer

lm

Heard learned counsel for the parties.

Issue notice on the respondents to show cause as to why the contempt proceedings shall not be initiated against the alleged contemners.

List on 7.11.02 for orders.

[Signature]
Vice-Chairman

List on 9.12.02 to enable the respondents to file written statement.

K. Choudhary
Member

[Signature]
Vice-Chairman

Notice prepared and sent to D/S for using the Respondent No 1 to 3 for Regd A/D. 20/10

D No 2873 dtd 16/10/02

No. reply has been
liked

30
6.11.02

9.12.02

None appears for the parties.

List on 3.1.2003 for orders.

10
Member

mb

21.12.03 Due to vacation, the case is
adjourned to 24.1.2004

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Member

24.1.03 Present : The Hon'ble Mr. Justice D.N.
Chowdhury, Vice-Chairman.

The Hon'ble Mr. S.K. Hajra,
Administrative Member.

Mr. A.K. Choudhury, learned
Addl. C.G.S.C. appearing on behalf of
the respondents stated that the respon-
dent Nos. 2 and 3 submitted their
written statement. Put ~~up~~ up the matter
on 25.2.2003 for orders. In the mean-
time, the applicant may take steps
for service of notices on respondent
No.1.

Already issued vide
D/No. 2873 to 2875 dtd.
16/10/02. Service report
still not filed. 24/1/02

500
Member

10
Vice-Chairman

27.1.03

~~At~~ Reply on
behalf of the
Respondent No. 2 & 3
has been submitted

25.2.2003

Reply has been filed by the
respondents. List the matter on
2.4.2003 for hearing alongwith O.A.
76/2002.

10
Vice-Chairman

mb

24.1.2003, List it alongwith the O.A. 76/2002
on 27/5/2003

19.2.03

Reply submitted by
the Respondent No. 1.

27.5. Hearing Concluded,
Judgment reserved,

10
Member

30.5.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.
The Hon'ble Mr. S.K. Hajra, Member (A).

9.C.2003

copy of the order has been sent to the office for issuing the same to the L/Adv. for the parties.

On perusal of the materials on record including the affidavit filed by the respondents taking all the aspects in the consideration, we close the contempt proceeding. Accordingly the C.P. ~~thus~~ stands dropped.

Singh K. H. G.
Member

[Signature]
Vice-Chairman

mb

*Recd
H.K. Ch. 17/6*

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI
Contempt Petition No. 44 /02.

In OA No. 76/02.

Dr. J.K. Goyal.

-----Applicant.

- Versus -

Union of India & Ors.

-----Respondents.

IN THE MATTER OF

An application under section 17 of the Administrative Tribunal Act, 1985 for willful and deliberate violation of the interim order dated 10.4.02 passed in OA No. 76/02.

-AND-

IN THE MATTER OF

An application under Rule 24 of the Central Administrative Tribunal (Procedure) Rule 1987 for effective implementation / enforcement of the aforesaid interim order dated 10.4.2002 passed in OA No. 76/02.

-AND-

IN THE MATTER OF

Order dated 27.8.2002 passed in Misc Case No. 1043/02 in WP(C) No. 3947/02 by the Hon'ble Guwahati High Court.

-AND-

IN THE MATTER OF

Filed by
the petitioner through
Alcha Das,
Advocate.
18/9/02

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Dr. J.K.Goyal,
Chief Commissioner of Income Tax,
Resident of Uzan Bazar, Guwahati-1.

-Versus-

1. Sri A.V.Singh, Secretary,
Department of Revenue,
Ministry of Finance, Govt. of India,
New Delhi.
2. Sri P.K.Sarma, Chairman,
Central Board of Direct Taxes,
Ministry of Finance, North Block,
New Delhi.
3. Sri D. Chakraborty,
Chief Commissioner of Income tax,
Guwahati, G.S.Road, Guwahati-5.

-----Contemners.

The humble petitioner above named;

MOST RESPECTFULLY SHEWETH:

1. That the petitioner challenging the legality and validity of the order of suspension preferred the above noted OA No. 76/82 before the Hon'ble Tribunal. The Hon'ble Tribunal vide its interim order dated 10.4.2002 stayed the operation of the impugned suspension order.

A copy of the said interim order dated 10.4.2002 is annexed as ANNEXURE-1.

2. That the Petitioner on receipt of the said interim order intimated the same to the Respondents. However, even after such intimation, there was no response from the Respondents and in fact no arrangement was made by them to ensure that the petitioner attends his duties as Chief

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Commissioner Income Tax, Guwahati.

3. That on the straight of the aforementioned interim order , the petitioner vide his letter dated 12.4.2002 intimated the contemner No.2 about his resumption of duties as Chief Commissioner of Income Tax Guwahati. However, there was no co-operation from the contemnners. Even the official vehicle meant for the petitioner was not made available.

A copy of the letter dated 12.4.2002 is annexed herewith and marked as ANNEXURE-2.

4. That the contemnners kept on violating the Annexure-1 interim order dated 10.4.2002 and situated thus the petitioner vide his letter dated 16.4.2002 informed the authorities explaining the effect of the interim order and about the prevailing situations. It is stated that at that point of time Sri D. Chakroborty was functioning as Chief Commissioner of Income Tax Guwahati and even after passing of the interim order said Mr. Chakroborty did not allow him to resume his duties. The aforesaid fact has been narrated by the petitioner in his aforementioned letter dated 16.4.2002, but there was no response from the concerned authority.

A copy of the said letter dated 16.4.2002 is annexed herewith and marked as ANNEXURE-3.

5. That the petitioner states that the contemnners even after having the knowledge of the Annexure-1 interim order dated 10.4.2002 passed in OA No. 76/02, did not allow him to resume his duties. Adding insult to his injuries, the contemnners withdraw the facility of Official Telephone (Phone No.519199) given to the petitioner in his official capacity as Chief Commissioner of Income Tax, Guwahati.

Being aggrieved by the aforesaid action of the contemnors, the petitioner vide his letter dated 2.5.2002 informed the concerned authority regarding the restoration of official telephone but same availed no result in positive.

A copy of the said letter dated 2.5.2002 is annexed herewith and marked as ANNEXURE-4.

6. That the contemnors even after passing of the interim order by the Hon'ble Tribunal did not release his salaries. Rather the petitioner was paid his subsistence allowance which goes to show that the contemnors have willfully and deliberately violated the interim order dated 10.4.2002. Despite the interim order dated 10.4.2002, the contemnors kept on treating him to be on suspension.

A copy of the statement dated 29.4.2002, releasing to the subsistence allowance for the month of April 2002 is annexed herewith and marked as ANNEXURE-5.

7. That Sri D. Chakroborty, the Chief Commissioner of Income Tax, has also violated the interim order dated 10.4.2002, as he kept on discharging the duty of Chief Commissioner of Income Tax, Guwahati, and the aforementioned fact can be revealed from the order dated 23.4.2002.

A copy of the letter dated 23.4.2002 is annexed herewith and marked as ANNEXURE-6.

8. That the petitioner states that in the Annexure -1 interim order dated 10.4.2002, the Hon'ble Tribunal while suspending the operation of the impugned suspension order protecting his interest, made it clear that the Respondents may come for alteration or modification of the said interim order if so advised. However, instead of making a prayer

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before this Hon'ble Tribunal for such modification the Respondents approached the Hon'ble High Court by way of filing W.P.(C) No.3947/02 assailing the legality and validity of the Annexure-1 interim order dated 10.4.2002. The Hon'ble High Court vide it's order 21.6.2002 stayed the operation of Annexure-1 interim order dated 10.4.2002.

A copy of the aforementioned order dated 21.6.2002 is annexed herewith and marked as ANNEXURE-7.

9. That the contemnners kept on violating the interim order of this Hon'ble Tribunal and with a malafide intention issued an order bearing No.72/02 dated 4.6.2002, by which contemnners No.3 has been transferred and posted in place of the petitioner showing the post of Chief Commissioner of Income Tax, Guwahati as vacant one. It is pertinent to mention here that on 4.6.2002 the Annexure-1 interim order dated 10.4.2002 was in operation and on the strength of aforementioned order the suspension order was inoperative treating the applicant to be in service. But the Contemnners to frustrate the claim of the applicant willfully and deliberately passed the aforementioned order dated 4.6.2002 showing the petitioner's post at Guwahati as vacant one. As stated above as on 4.6.2002 the Annexure-1 order dated 10.4.2002 was in operation and the contemnners ought not to have issued the order dated 4.6.2002.

A copy of the order dated 4.6.2002 is annexed herewith and marked as ANNEXURE-8.

10. That the petitioner assailing the legality and validity of the aforesaid order dated 4.6.2002 once again approached before this Hon'ble Tribunal by way of filing OA No. 181/02 and the Hon'ble Tribunal while admitting the OA

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was pleased to pass interim order suspending the operation of the transfer order dated 4.6.2002 (Annexure-8).

A copy of the said order dated 7.6.2002 is annexed herewith and marked as ANNEXURE-9.

11. That in the midst of aforesaid eventuality the petitioner preferred contempt petition bearing No. C.P.No.21/02 before this Hon'ble Tribunal for willful and deliberate violation of the interim order dated 10.4.2002 (Annexure-1). However, the aforementioned contempt petition was dropped vide order dated 28.6.2002, taking in to consideration the order dated 21.6.2002 passed by the Hon'ble High Court suspending the operation of the order dated 10.4.2002. It is pertinent to mention here that the petitioner also preferred a Misc Petition No. 79/02 in C.P. 21/02 praying for personal appearance of the Contemners. The said M.P. was also rejected vide order dated 28.8.2002 along with the C.P. 21/02. Both the M.P. and C.P. were closed taking into consideration the interim order passed by the Hon'ble High court dated 21.6.2002. It is noteworthy to mention here that the petitioner preferred a Misc Case bearing No. 1043/02 in the W.P.(C) No. 3947/02 before the Hon'ble High Court for vacation of the interim order dated 21.6.2002 and the Hon'ble High Court was pleased to vacate the interim order by an order dated 27.8.02.

A copy of the order dated 27.8.2002 passed in M.C.No. 1043/02 is annexed herewith and marked as ANNEXURE-10.

12. That in view of the Annexure-10 order dated 27.8.2002 the earlier Annexure-1 order dated 10.4.2002 get revived and on the strength of the said order now the

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petitioner can not be held to be under suspension. It is pertinent to mention here that the contemnors knowing fully well about the passing of the order dated 27.8.2002 have not taken any initiative to comply with the interim order dated 10.4.2002.

13. That from the facts narrated herein above, it is evident that the Respondents have continued to act in violation of the interim order of the Hon'ble Tribunal dated 10.4.2002 passed in DA No.76/02 which was subsequently confirmed by the Hon'ble High Court. Hence this Hon'ble Tribunal may be pleased to draw contempt proceeding against the contemnors and to punished them severely for their willful and deliberate violation of the order dated 10.4.2002 (Annexure-1). It is stated that the present case is an unique case wherein Your Lordships would graciously be pleased to call for the personal appearance of the contemnors while issuing notice in this C.P.

14. That admittedly the Respondents have committed contempt of this Hon'ble Tribunal once again, rather under the facts narrated above it is a repeatation and a continuous act on their part showing complete disregard to the majesty of this Hon'ble Tribunal. The series of illegal acts and omissions clearly indicates the mind set of the Respondents, that they would not allow the order dated 10.4.2002 to come in force and to subvert the said order they kept on showing total disregard to this Hon'ble Tribunal. The present case is a fit case wherein this Hon'ble Tribunal may be pleased to call for the personal appearance of the Respondents / Contemnors and / or may be pleased to pass an appropriate order ensuring of the effective implementation of the interim order dated

10.4.2002 passed in OA No. 76/02 invoking Rule 24 of the Central Administrative Tribunal (Procedure) Rule, 1987.

15. That this petition has been filed bonafide and to secure ends of Justice.

In the premises aforesaid it is most respectfully prayed that Your Lordships would graciously be pleased to call for the records of the case, issue notice to the contemnors to show cause as to why appropriate contempt proceeding shall not be drawn against them and upon hearing the parties to the proceeding and on perusal of the records, on cause or causes that may be shown, be pleased to punish the contemnors severely for committing contempt of this Hon'ble Tribunal by their act of willful and deliberate violation of the interim order dated 10.4.2002 passed in OA No. 76/02 which was subsequently confirmed by the Hon'ble High Court by the order dated 27.8.2002 passed in M.C. No.1043/02 in W.P.(C) No.3947/02 and / or to pass necessary order for enforcement /implementation of the said interim order dated 10.4.2002 and/or to pass any such order /orders as Your Lordships deemed fit and proper.

And for this act of kindness the humble petitioner as in duty bound shall ever pray.

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DRAFT CHARGE

Whereas Sri A.V.Singh, Secretary, Department of Revenue, Ministry of Finance, Govt. of India, Sri P.K. Sarma, Chairman, Central Board of Direct Taxes, Ministry of Finance and Sri D.Chakroborty, Chief Commission of Income Tax, Guwahati are liable to be punished for their willful and deliberate violation of the interim order dated 10.4.2002 passed in OA No.76/02.

AFFIDAVIT

I, Dr. J.K.Goyal, aged about 57 years, son of Shri M.L.Goyal, resident of Uzan Bazar, Guwahati -1, do hereby solemnly declare and state as follows:

1. That I am the petitioner in the accompanying petition and as such, well conversant with the facts and circumstances of the case. I am therefore competent to swear this affidavit.

3. That the statements made in this affidavit and in paragraph...12-15..... of the accompanying application are true to my knowledge, those made in paragraph...1-11.....are matters of records which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material facts. The Annexure are true copies of their original.

And I sign this affidavit on this the 18th day of Sept. 2002 at Guwahati.

Identified by me:

Usha Das

Advocate

J.K. Goyal
(J.K. GOYAL)

Deponent.

Solemnly declare and state by the deponent who is identified by Miss U.Das Advocate.

Anupam Chakraborty
Advocate
18/9/02

Original No. 76/2002
 Misc. Petition No.
 Contempt Petition No.
 Review Application No.

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ANNEXURE - 1

Applicant(s) J.K. NayakRespondent(s) H.O.I. NayakAdvocate for Applicant(s) B.K. Sharma, P.K. Tiwari, S. SamraAdvocate for Respondent(s) U.K. Nayak, A.K. Choudhury

| Notes of the Registry | Date | ORDER OF THE TRIBUNAL |
|--|--------|---|
| This is application in form of C.P. No. 507 deposited on 18.3.2002 | 7.3.02 | Pass over for the day. List on 18.3.2002 for admission. |

O.A.76/2002

10.4.2002

Heard Mr.B.K.Sharma, learned Sr.counsel for the applicant and also Mr.A.K.Chaudhury, learned Addl.C.G.S.C. appearing on behalf of the respondents on the interim matter.

By order dated 18.2.2002 the applicant was placed under suspension in aid of power conferred by sub-rule 1 of Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The said communication was preceded by show cause memo dated 18.2.2002 indicating that the suspension order was directly related to the disposal of an appeal by the applicant relating to block assessment of one Shri Karuna Kar Mohanty, earlier assessed by the then DCIT (Inv) Circle-1, Bhubaneswar.

It was alleged that the applicant passed the appellate order in unseemly hurry, without properly appreciating the evidences contained in seized papers and without affording any opportunity to the AO to be heard as prescribed under the Act. On the own showing of the respondents the applicant alleged that the suspension order is directly attributable to its exercise of quasi judicial power conferred by its statute. It is also stated that against the very order passed by the applicant, both the revenue as well as the assessee had preferred Appeals before the Income Tax Appellate Tribunal under section 253 of the Income Tax Act. I have also perused the reasons assigned in the Show Cause



Attested
 [Signature]
 Advocate

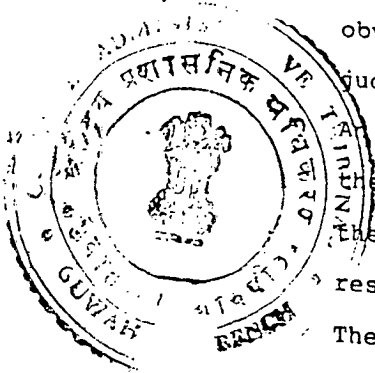
Contd.

asking explanation from the official as to the grounds for holding the appellate authority guilty of unseemly hurry without properly appreciating the evidence and without affording the AO to be heard. It at best only shows that the officer passed a wrong order and erred in appreciation of facts and the law. It may be noted that the alleged ground of imputation pertains to exercise of quasi judicial power conferred on the Appellate Authority under section 251 of the Income Tax Act. There is an obvious distinction between judicial - quasi judicial function qua administrative function. An administrative decision is made according to the administration policy. In the former act, the authority attempt to find out the right result according to legal principles and norms. The expression quasi judicial is a sobriquet or a label for the exercise of power to administration. Such power is to be exercised in legal and judicial way - where he has the jurisdiction to err. These are only tentative view expressed while examining the interim prayer.

Instead of passing any interim order, though I would have preferred for disposal of the OA on merit, but that is not immediately possible since the other member consisting of this Bench is not inclined to take up the matter. The hearing of the application is likely to take some more time, therefore the interim application is taken up.

The alleged imputation are based on assessment records which are presently pending before the Income Tax Appellate Tribunal. There is thus no scope for the applicant to deflect on interpolate the evidence and all the materials on which the alleged misconduct is based.

Contd.



Attested
W. D. D.
Advocate.



डॉ. जे. के. गोयल, भार.रा.से.
Dr. J. K. Goyal, I.R.S.

F.No.JKG/CCIT/GHY/2002-2003/449

To
The Chairman,
Central Board of Direct Taxes,
North Block, NEW DELHI-110001.

Sir,

I have resumed my duties as Chief Commissioner of Income-tax, Guwahati in the afternoon of 10th. April, 2002 by virtue of the order of the Hon'ble Central Administrative Tribunal, Gauhati Bench, Guwahati in OA No.76/2002, dated 10-04-2002 whereby the operation of the order of Ministry of Finance dated 18-02-2002 passed from F.No.14011/5/2002 has been suspended.

This is for your kind information and necessary action.

Yours faithfully,

(J.K. GOYAL)

Memo No.JKG/CCIT/GHY/2002-2003/450-60

Date : 12-04-2002.

Copy to :-

1. All Members, Central Board of Direct Taxes, New Delhi.
2. The Joint Secretary (Admn.), Central Board of Direct Taxes, North Block, NEW DELHI-110001.
3. The Zonal Accounts Officer, Central Board of Direct Taxes, Dhankheti, Shillong-793003.
4. The Field Pay Unit, Guwahati.
5. Shri D. Chakraborty, Chief Commissioner of Income-tax-IV, Aayakar Bhawan, P-7, Chowringhee Square, Kolkatta-69.
6. Shri K.R. Das, Addl. Commissioner of Income-tax, Hqrs., O/o. the Chief Commissioner of Income-tax, Guwahati.

(J.K. GOYAL)

Attested
(J.K. GOYAL)
Advocate

Gurgaon
16.04.2002

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To,

The Honorable Chairman
CBDT, North Block, New Delhi

Sir,

By virtue of Order dt. 10.4.2002 passed by Honble CAT, Ghy in OA No 76/2002 pronounced in Open Court in the presence of Addl CG.S.C. and the officers of the Department, the operation of order dt. 18.02.2002 under Rule 10(2) of the CCS (CCA) Rules, 1965 from F.No 14011/S/2002 of the Ministry of Finance stands suspended. As a natural consequence, I resumed my duties as CCIT, Gurgaon. However Shri D. Chakrabarty CCIT Kolkata, who signed the reply on behalf of the respondent in the said OA as CCIT Gurgaon (Addl Charge) is of the opinion, as communicated to me orally by the Addl CIT Hqs c/o the CCIT, Gurgaon more than once, that I cannot function Gurgaon unless the Government so orders.

Copies of the order of the Honble CAT have been sent to the Ministry/Board the departmental officers as well as by me on 11.04.2002 and thus preventing me from functioning as CCIT -Gurgaon amounts to wilful disobedience of the order of the Honorable Court.

This is brought to your kind notice for favour of kind information and necessary action of the Ministry/Board.

Thanking you

Encl: Copy of order as well as
copy of the letter for
Honble Revenue Secretary

Yours faithfully
Cao
(Dr. Goyal)

Copy in advance to the Honble Revenue Secretary for favour of information and necessary action

Cao
(Dr. Goyal)

Attested
UDen
Advocate



CHIEF COMMISSIONER OF INCOME TAX
GUWAHATI

(4)

To:
The Addl CIT Hqs
o/o CCIT, Ghy.

My residential telephone bearing
no 519199 has been out of order
since the month of March, 2002 for
which information has been given by
me to you/PRO/PRI a number of
times, but of no avail

You may like to take corrective
measures

Corr. 02/05/02.
(J.K. Goyal)

Attested
W.Sen
Attested

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ANNEXURE - 1/5

F.No.B-50/Pay/Sub/CCIT/GHY/2001-02/ 959 Dt. 29/04/02

(5)

OFFICE OF THE
CHIEF COMMISSIONER OF INCOME TAX,
SAIKIA COMMERCIAL COMPLEX,
G. S. ROAD, GUWAHATI.

(a) Statement of various payment made under FR 53 for the period
from 01/04/2002 to 30/04/2002 in favour of Sri Jugal Kishore
Goyal, CCIT.

| | |
|------------------------------|-------------|
| i) Subsistance allowance @ | |
| Rs. 11463/- | Rs. 11463/- |
| ii) D.A @ 49% on Rs.11463/- | Rs. 5617/- |
| iii) P.P. @ Rs.250/- | Rs. 250/- |
| iv) H.R.A @15% on Rs.22925/- | Rs. 3439/- |
| v) S.C.A @200/- | Rs. 200/- |
| Total | Rs.20969/- |

Deduction

| | |
|--------------|----------|
| i) CGHS | Rs.150/- |
| ii) CGEGIS | Rs.120/- |
| iii) A.P.Tax | Rs.185/- |

Net payable

Rs. 455/-
Rs.20514/-

b) Arr. D.A. for the period from 01/01/2002
31/03/02.

Rs. 2157/-

S. Sikidar

(S. Sikidar)

Drawing and Disbursing officer
O/o The Chief Commissioner of income tax,
Guwahati.

Advocate

Government of India : Ministry of Finance
 Department of Revenue
OFFICE OF THE CHIEF COMMISSIONER OF INCOME-TAX
 "Saikia Commercial Complex"
 (2nd Floor) : 'Sreenagar' : G. S. Road : Guwahati - 781 005

ORDER

Dated, Guwahati the 23rd April, 2002

ESTABLISHMENT : : : : : GAZETTED

Smt. Nidhi Sharma, ACIT whose services has been placed under the disposal of the Chief Commissioner of Income Tax, Guwahati vide Board's Order No. 51 of 2002, dated 02-04-2002 in F. No. A-22013/2/2002-Ad.VI is hereby posted temporarily as ACIT(OSD) in the O/o the Chief Commissioner of Income Tax, Guwahati, untill further order. She is also directed to hold the charge of ACIT, Circle- Imphal in addition to her own, relieving Shri A.J. Singh, ITO of his additional charge.

Sd/-

(D. Chakravarti)
 Chief Commissioner of Income Tax,
Guwahati

Memo No. E-168/DCIT-ACIT(posting)/CCIT/GHY/2001-02/725-74 dated 23rd April, 2002

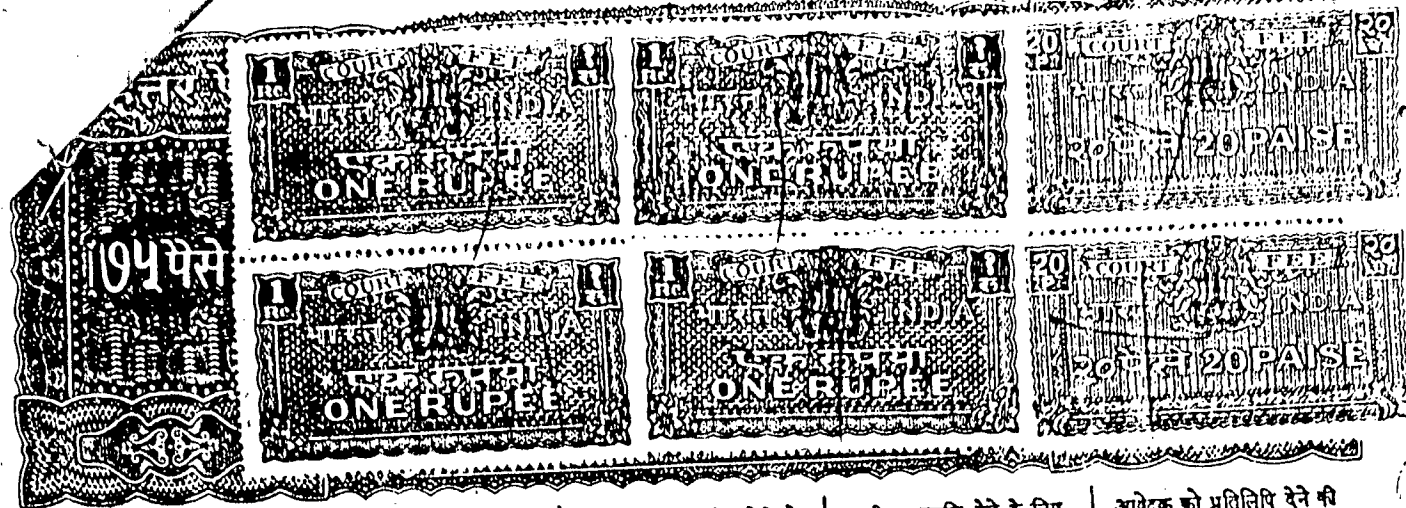
Copy to :-

1. The Deputy Secretary, Ad VI, CBDT, New Delhi.
2. The D.G, N.A.D.T, Nagpur
3. The CCIT, Shillong.
4. All Cs.I.T/Cs.I.T(A) in N.E. Region
5. All Addl. CsIT / Sr. A.R. ITAT / JCST in this Region.
6. All others Heads of Offices in NER
7. The ZAO, CBDT, Shillong.
8. Field Pay Units, Guwahati..
9. The AD (OL), Guwahati for Hindi version.
10. The Secretary, IRS Association, N.E. region.
11. The General secretary, ITGSF/ITEF, N.E. Circle, Guwahati.
12. Person concerned.

Attested


(S. Das)

Asstt. Commissioner of Income Tax (Admn.), Hqrs.,
For Chief Commissioner of Income Tax, Guwahati



| प्रतिनिधि के लिए आवेदन की तारीख Date of application for the copy. | स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की नियमित तारीख Date fixed for notifying the requisite number of stamps and folios. | अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios. | तारीख, जबकि देने के लिए प्रतिनिधि तैयार थी Date on which the copy was ready for delivery. | आवेदक को प्रतिनिधि देने की तारीख Date of making over the copy to the applicant. |
|--|--|---|--|--|
| 21.6.2002 | 24.6.2002 | 25.6.2002 | 27.6.2002 | 28.6.2002 |

IN THE GAUHATI HIGH COURT

(HIGH COURT OF ASSAM; NAGLAND; MEGHALAYA; MANIPUR; TRIPURA;
MIZORAM AND ARUNACHAL PRADESH)

W.P.C. NO. 3947/2002.

1. The Union of India, represented by the secretary ,
Deptt. of Revenue Ministry of Finance, Govt. of India
New Delhi.
2. The Chairman Central Board of Direct Taxes. Ministry
of Finance North Block ,New Delhi.
3. The Director General of Income Tax, (Vigilance)
Central Board of Direct Taxes ,1 Deen Dayal Upadhyay
Marg, New Delhi.
4. The Under Secretary to the Govt. of India,
Ministry of Finance Deptt. of Revenue ,Central Board
of Direct Taxes North Block ,New Delhi.

..Petitioners.

-Vs-

Shri J.K. Goyal, Chief commissioner of Income Tax, (Under
suspension) a resident of Uzan Bazar, Ghy.

..Respondent

::PRESENT::

THE HON'BLE THE CHIEF JUSTICE
THE HON'BLE MR. JUSTICE J.N. SARMA

Contd...2/-

Attested
Under



| | | | | |
|--|---|--|--|--|
| प्रतिनिधि के लिए आवेदन की तारीख Date of application for the copy. | स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios. | अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios. | तारीख, जबकि देने के लिए प्रतिनिधि तैयार थी Date on which the copy was ready for delivery. | आवेदक को प्रतिनिधि देने की तारीख Date of making over the copy to the applicant. |
| | | | | |

-2-

For the petitioner :- Mr.G.P. Bhowmik,
For the respondent:- Mr.U. Bhuyan, Mr.P.K. Tiwari.
Date:-21.6.2002.

O R D E R

Heard Mr.G. K. Goshe learned counsel for the petitioners.
Admit.

Mr. B.K. Sharma learned counsel puts in appearance on behalf of the respondent.

The operation of the order passed by the ~~माननीय~~
Central Administrative Tribunal, Guwahati Bench on 10.4.2002, in O.A. No. 76/2002, shall remain stayed.

Sd/-JN SARMA,
JUDGE.

Sd/-P.P. NAOLEKAR
CHIEF JUSTICE.

Registered No. of Petition 11559
Photostat by Type by ✓ 11559-6
Read by.....
Compared by.....
25/6/02

CERTIFIED TO BE TRUE COPY
Date 25/6/02
Superintendent (Copying Section)
Gauhati High Court
Authorized U/S 76, Act I, 1872

Attested
Advocate
Advocate.

25/6/02

F.NO.A-32011/99/2000-AD.VI
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
(CENTRAL BOARD OF DIRECT TAXES)

-21-
ANNEXURE - 8
24

NEW DELHI, DATED THE 4TH JUNE, 2002

ORDER NO. 72 OF 2002

The following postings and transfers in the grade of Chief Commissioners/Directors General of Income Tax are hereby ordered with immediate effect and until further orders.

| Sl. No. | NAME (SPR/ SMT.) | CODE | FROM | TO | REMARKS |
|---------|------------------|-------|--------------------|-------------------|--|
| 1. | D. Chakravarti | 67001 | CCIT-IV, Kolkata | CCIT, Guwahati | Vacant Post |
| 2. | Hardeep Kaur | 67004 | CCIT, Panchkula | CCIT, Chandigarh | Vacant Post |
| 3. | R. Balakrishnan | 67012 | CCIT, Trivandrum | CCIT-II, Chennai | Vice Smt. S. K. Aulakh Transferred. |
| 4. | K.K. Roy | 67025 | CCIT-VII, Mumbai | CCIT, Bhopal | Vice S.N. Bhargava Transferred. |
| 5. | S.N. Bhargava | 67027 | CCIT, Bhopal | CCIT-IX, Delhi | Vice Smt. Urvashi Saxena Transferred. |
| 6. | H.S. Subramaniam | 67030 | CCIT, Coimbatore | CCIT-II Bangalore | Vice Sh. B.L. Rao Transferred. |
| 7. | N.K. Jain | 68002 | CCIT-IV, Ahmedabad | CCIT, Trivandrum | Vice Smt. R. Balakrishnan Transferred. |
| 8. | M.S. Darda | 68014 | CCIT, Baroda | CCIT, Jodhpur | Vice Smt. Baljit Bains Transferred. |
| 9. | Urvashi Saxena | 68016 | CCIT-IX, Delhi | CCIT, Thane | Vice Smt. V.L. Sharma Transferred. |
| 10. | M.K. Mishra | 68017 | CCIT-X, Delhi | CCIT-IV, Kolkata | Vice Sh. D. Chakravarti Transferred. |
| 11. | M.C. Joshi | 68019 | CCIT-X, Mumbai | CCIT, Baroda | Vice Sh. M.S. Darda Transferred. |
| 12. | Baljit Bains | 69009 | CCIT, Jodhpur | CCIT, Panchkula | Vice Smt. Hardeep Kaur Transferred. |
| 13. | V.L. Sharma | 69021 | CCIT, Thane | CCIT-XII, Mumbai | Vacant Post |
| 14. | B. Ramakumar | 69026 | CCIT-VI, Chennai | CCIT, Panaji | Vacant Post |
| 15. | V.K. Baranwal | 69027 | CCIT-II Hyderabad | CCIT-XIII, Mumbai | Vacant Post |
| 16. | K.R. Bhatia | 68025 | CCIT-XI, Delhi | CCIT-X, Delhi | Vice Sh. M.K. Mishra Transferred. |
| 17. | A.N. Prasad | 69011 | CCIT-XII, Delhi | CCIT-XI, Delhi | Vice Smt. K.R. Bhatia Transferred. |
| 18. | A.S. Narang | 68005 | CCIT XIII, Delhi | CCIT-XII, Delhi | Vice Sh. A.N. Prasad Transferred. |
| 19. | Berjinder Singh | 68003 | CCIT-XIV, Delhi | CCIT-XIII, Delhi | Vice Sh. A.S. Narang Transferred. |

[Signature]

42 1917

Attested
[Signature]
Advocate

| | | | | | |
|-----|--------------------|-------|--------------------|----------------------|---|
| 20. | S.N. Soni | 67020 | CCIT-VI, Mumbai | CCIT-II, Mumbai | Vacant Post |
| 21. | G. Anantharaman | 68006 | CCIT-VII, Mumbai | CCIT-IV, Mumbai | Vice Sh. V.S. Wahi Transferred. |
| 22. | P. Mishra | 68013 | CCIT-IX, Mumbai | CCIT-V, Mumbai | Vice Sh. S.K. Bhatnagar Transferred. |
| 23. | Shibaji Das | 68026 | CCIT-XI, Mumbai | CCIT-VI, Mumbai | Vice Sh. S.N. Soni Transferred. |
| 24. | Kum.M.H. Kherawala | 69001 | CCIT-XII, Mumbai | CCIT-VII, Mumbai | Vice Sh. K.K. Roy Transferred. |
| 25. | Sudhakar Mishra | 69008 | CCIT-III, Mumbai | CCIT-VIII, Mumbai | Vice Sh. G. Anantharam Transferred. |
| 26. | Rajiv Ranjan Singh | 69010 | CCIT-XIII, Mumbai | CCIT-IX, Mumbai | Vice Sh. P. Mishra Transferred. |
| 27. | V.S. Wahi | 69012 | CCIT-IV, Mumbai | CCIT-X, Mumbai | Vice Sh. M.C. Joshi Transferred. |
| 28. | S.K. Bhatnagar | 69017 | CCIT-V, Mumbai | CCIT-XI, Mumbai | Vice Sh. Shibaji Das Transferred. |
| 29. | P.N. Pathak | 69004 | CCIT-II, Kolkata | CCIT-X, Kolkata | Vice Sh. N.P. Sengupta Transferred. |
| 30. | N.P. Sengupta | 69034 | CCIT-X, Kolkata | DGIT (Inv.), Kolkata | Vacant Post |
| 31. | R.C. Midha | 68031 | CCIT-V, Chennai | CCIT-III, Chennai | Vacant Post |
| 32. | K. Gopalan | 69026 | CCIT-IV, Chennai | CCIT-V, Chennai | Vice Sh. R.C. Midha Transferred. |
| 33. | S.K. Aulakh | 69036 | CCIT-II, Chennai | CCIT-VI, Chennai | Vice Sh. B. Ramakumar Transferred. |
| 34. | B.L. Rao | 67024 | CCIT-II, Bangalore | CCIT-I, Bangalore | Vacant Post |

Regrindu

(KANWAR RAJINDER SINGH)
Director to the Government of India

Copy to:-

1. Officers concerned. (Representations / requests regarding transfer / leave etc will be considered only from those officers who take over their charge of the post assigned vide this order).
2. Chief Commissioners/Directors General of Income Tax.
3. Principal Chief Controller of Accounts New Delhi.
4. Zonal Accounts Officer, CBDT, C/O CCIT, concerned.
5. DIT(IT)/DIT(RSP&PR)/DIT(Audit)/DIT(Vig.)/DIT(Sys)/DIT(Rec.)/DIT(O&MS)/ DIT(Spl.Inv.)
6. PSs to Finance Minister/MOS(R)/FS/Secy(Rev.)/AS(R)/Chairman, CBDT/ Members, CBDT/JS(Admn. CBDT/Director(Hqis Admn)/Directors, CBDT/DSs, CBDT/ OSD to Finance Minister/MOS(R)
7. US(HQ/Pers)/ (Pers/DT)/Ad.VIA/Ad.VII/ITCC/OT/Computer Cell/Hindi Section.

Phonetic

(KANWAR RAJINDER SINGH
Director to the Government of Punjab

Advocate.

Attested
V. D. N.
Advocate.

In The Central Administrative Tribunal ANNEXURE-9

GUWAHATI BENCH : GUWAHATI

- 23 -

mb

ORDER SHEET

APPLICATION NO. 181/2002

OF 199

Applicant(s) J. K. Goyal

Respondent(s) U.O. 3 & OMO.

Advocate for Applicant(s) Mr. B. K. Sharma, Mr. S. Sarma, Miss U. Das

Advocate for Respondent(s) C. G. S. C.

| Notes of the Registry | Date | Order of the Tribunal |
|-----------------------|--------|--|
| | 7.6.02 | <p>Heard Mr. S. Sarma, learned counsel for the applicant and also Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents.</p> <p>The application is admitted. Call for the records.</p> <p>Issue notice to show cause as to why interim order as prayed for shall not be granted. Returnable by three weeks.</p> <p>In the meantime, the operation of the order No. F.No.A-32011/09/2000-AD.VI dated 4.6.2002 passed by the Director to the Government of India, Ministry of Finance, Department of Revenue, transferring the Respondent No.4 Chief Commissioner of Income-tax-IV, Kolkata to the post of Chief Commissioner of Income Tax, Guwahati presently held by the applicant shall remain suspended till the returnable date.</p> <p>List on 27.6.2002 for orders.</p> |



Certified to be true Copy
प्रमाणित प्रतिलिपि

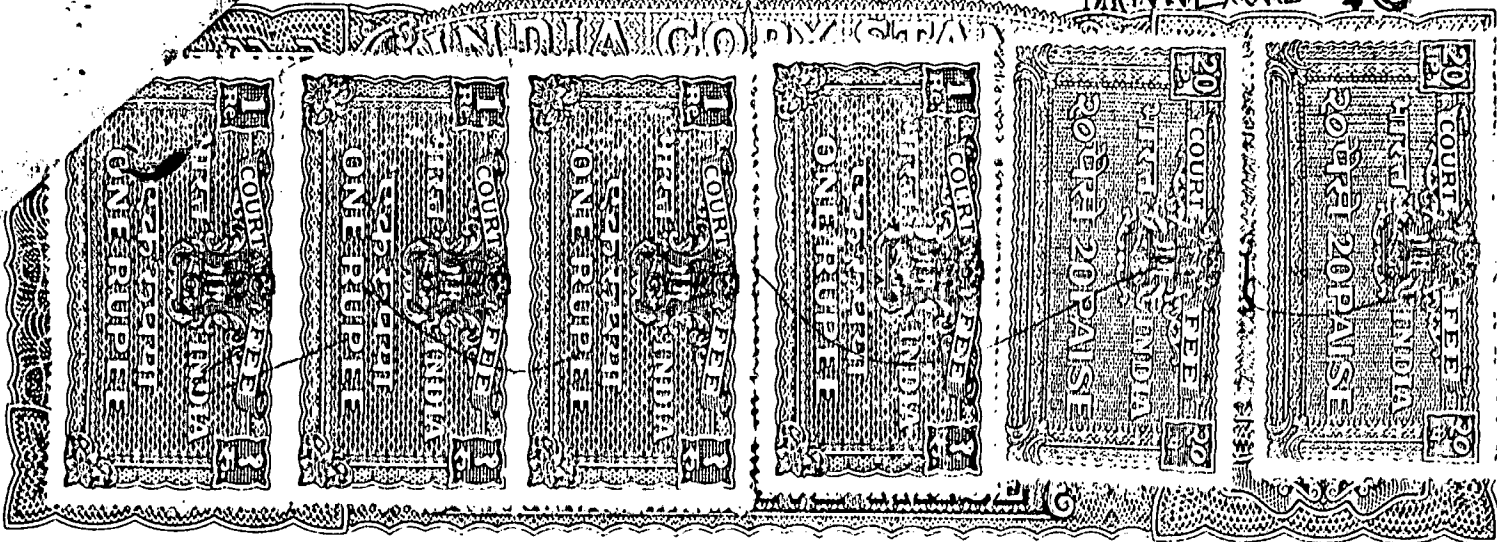
Sd/VICE CHAIRMAN

[Signature]
7/6/2002

Section Officer (J)
आयुक्त अधिकारी (न्यायिक शाखा)
Central Administrative Tribunal
Guwahati Bench

Attested

[Signature]
Advocate.



| प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy. | स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios. | अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios. | तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery. | आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant. |
|--|---|--|--|--|
| 29.8.2002 | 29.8.2002 | 29.8.2002 | 29.8.2002 | 29.8.2002 |

IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM NAGALAND MEGHALAYA MANIPUR TRIPURA
MIZORAM & ARUNACHAL PRADESH)

MISC.CASE NO. 1043/2002

(IN W.P. (C) NO. 3947/2002)

JK Goyal,
Chief Commissioner of Income-Tax (U/s)
Resident of Uzanbazar, Kamrup, Assam.

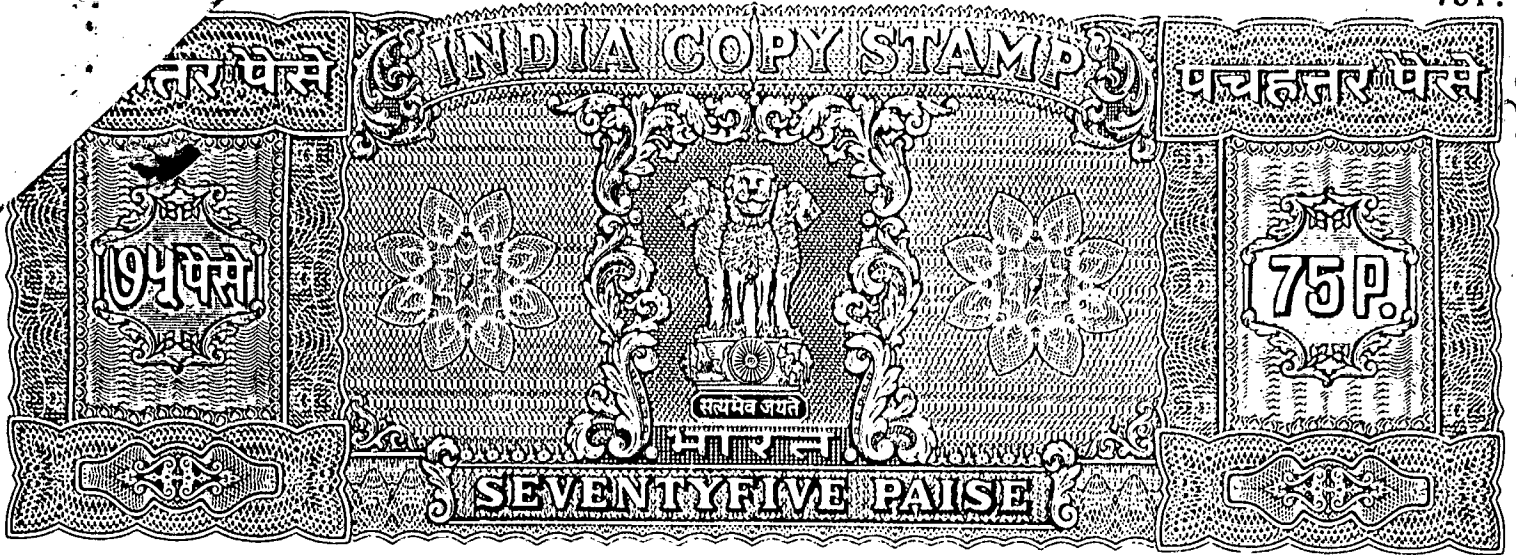
...Applicant/
Respondent.

-Vs-

1. The Union of India,
Represented by the Secretary,
Department of Revenue, Ministry of
Finance, North Block, New Delhi.
2. The Chairman, Central Board of
Direct Taxes, Ministry of Finance, North
Block, New Delhi.
3. The Director General of Income-Tax
(Vigilance) Central Board of Direct Taxes, 1,
Deem Dayal Upadhyay Marg, New Delhi.
4. The Under Secretary to the
Government of India, Ministry of Finance,
Department of Revenue, Central Board of
Direct Taxes, North Block, New Delhi.

...Respondents/
Petitioners.

Attested
Advocate.



| प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy. | स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios. | अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios. | तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery. | आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant. |
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| | | | | |

2.

PRESENT.

THE HON'BLE THE CHIEF JUSTICE MR P.P.NAOLEKAR

THE HON'BLE MR JUSTICE B.B.DEB.

FOR THE PETITIONER : Mr. B.K. Sharma,
Mr. U. Bhuyan,
Mr. P.K.Tiwari, Mr. S.K. Das, Advs.

FOR THE RESPONDENTS : Mr. G.P. Bhowmick, Adv.

27.08.2002

ORDER

Order passed by this Court on 21.06.2002
staying operation of the order passed by the Central
Administrative Tribunal, Guwahati Bench dated 10.4.2002
in O.A.No. 76 of 2002 stands vacated.

Misc. Case stands disposed of.

Sd/-B.B.DEB
JUDGE

Sd/-P.P.NAOLEKAR
CHIEF JUSTICE

Registered No. of Petition...15693.
Photostate by/Type by...
Read by...
Compared by...

Krishna K. Singh
29th day of August 2002

29/8/2002

29/8/2002

Attested
by
Advocate.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH GUWAHATI

C.P. NO.44/02

IN

OA NO.76/02

In the matter of :
Dr. J.K. Goyal,
Chief Commissioner of Income-tax,
Uzan Bazaar, Guwahati-I

.....Applicant

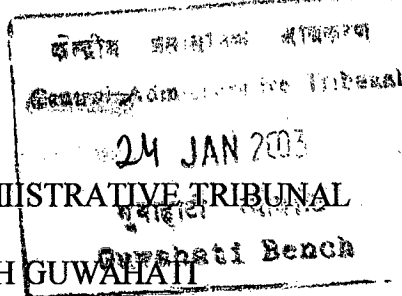
Versus

Union of India & ors.

.....Respondents

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| 3. | Annexure RC-2 | 9 |



P. H. Sarma - O.P.N. 2

Atty:-

Dr. Hema Chandra

24/1/03

29

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH GUWAHATI

C.P. NO.44/02

IN

OA NO.76/02

In the matter of :

Dr. J.K. Goyal,
Chief Commissioner of Income-tax,
Uzan Bazar, Guwahati-I

.....Applicant

Versus

Union of India & ors.

.....Respondents

AFFIDAVIT

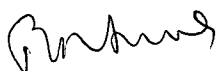
**REPLY ON BEHALF OF THE RESPONDENT NO.2-IN CP NO.44/02 IN OA
NO.76/02**

I, P. K. Sarma, Chairman, Central Board of direct taxes, New Delhi do
hereby solemnly affirm and state as under:

That the respondent contemnor at the very outset tenders
unconditional and unqualified apology. He has the highest regard for the
Hon'ble Tribunal and therefore, there is no question of any willful
disobedience to the order of this Hon'ble Tribunal. That the answering
respondent most humbly submits that he has acted on the legal advice
tendered to him.

That the answering respondent has gone through the contents of the
Contempt Petition and has fully understood the same. At the very outset
the answering respondent denies each and every allegation and averment
of law and facts made against him in the contempt petition, save and
except specifically admitted hereinafter

Para 1 : The Order of Suspension dated 18.02.2002 of the Applicant was
suspended by the Hon'ble Tribunal by an interim order dated 10.04.2002
but the Respondents had filed a writ against the impugned order before the
Hon'ble Guwahati High court vide WP (C)- No.3947/2002 on 14.06.2002,
which is still pending for disposal.

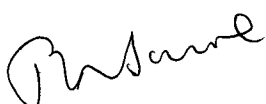


✓ Para 2: It refers to the periods where the Respondents were holding consultations and seeking legal opinion, on the question of implementation of the said order of the Hon'ble Tribunal or otherwise.

Para 3: Pursuant to the said interim order of the Hon'ble Tribunal the Applicant sent an intimation on 12.04.2002 regarding resumption of duties as CCIT. However, Shri D. Chakravorty was holding additional charge as CCIT, Guwahati as on 12.04.2002.

Para 4: The Applicant has completely misunderstood the situation that arose immediately after his suspension and its continuance. As a matter of fact, the order of suspension was immediately followed by another order dated 19.02.2002 by which Shri E.J. Mawlong, CCIT, Shillong was directed to hold the Additional Charge of the CCIT, Guwahati. After retirement of Shri E.J. Mawlong, CCIT, Guwahati on 28.02.2002 the charge of this post was taken over by Shri D. Chakravorty, as CCIT, Guwahati by an order of the Board dated 28.02.2002. Therefore, the post of CCIT, Guwahati was never left vacant after suspension of Shri J.K. Goyal, CCIT on 18.02.2002. The applicant did not have the charge of CCIT, Guwahati at any point of time subsequent to his suspension and therefore, the presumption that the applicant continued to be the CCIT, Guwahati consequent upon the interim order of the Tribunal dated 10.04.2002 in OA No.76/2002, is not correct.

Para 5: As regards Applicant's resuming duties as CCIT, Guwahati the position has been clarified in Para 4 above. As regards withdrawal of official Telephone No. 519199 the Respondents hereby clarify that the Applicant after joining as the CCIT, Guwahati was staying in a transit camp meant for touring officers housed in the hired Red Cross Bhawan, Uzan Bazaar, Guwahati in which the said telephone was installed. The transit Camp had one bedroom with attached bathroom and kitchen facility and was neither a Guest House nor an official accommodation suitable to the status of the CCIT. Since this was not an official allotment the Applicant was all along drawing the House rent Allowance as well. It was during the tenure of the Applicant and prior to his suspension on 18.02.2002, that the process of de-hiring the said Red Cross Bhawan was set in motion and the land and building committee also recommended on 20.09.2001 and 18.01.2002 the de-hiring of the said building. The Applicant can not plead ignorance of all these developments, more so when he was officially informed about the de-hiring process, which naturally called for shifting of all Govt. Assets



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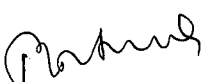
including the telephone as indicated by the Applicant. Therefore, the submissions of the Applicant are not correct and they are misleading, being far from truth.

Para 6: The Respondents filed a Writ Petition No. WP (C) No.3947/2002 before the Hon'ble High Court on 14.06.2002, which by an interim order dated 21.06.2002 had stayed the impugned order of this Hon'ble Tribunal. The stay remained in force till 27.08.2002 – the date on which the Hon'ble High Court vacated its own interim order dated 21.06.2002 in a Misc. Case No. 1043/2002 in WP (C) No.3947/2002 filed by the applicant. Thereafter, the Respondents have implemented the interim order of the Hon'ble Tribunal dated 10.04.2002 and posted the applicant as CCIT (OSD), Guwahati w.e.f. 10.04.2002. Consequently, full pay and allowances of the Applicant have been released for the month of November, 2002 and his arrear bill w.e.f. 10.04.2002 has also been cleared. The delay has been caused due to procedural formalities and for this delay the Respondents tender unqualified apology before this Hon'ble Tribunal.

Para 7: Shri D. Chakraborty has assumed the additional charge of CCIT, Guwahati w.e.f. 28.02.2002, well before Hon'ble Tribunal's interim Order dated 10.04.2002. The position in this regard has been indicated in Para 4 above.

The Respondents further submit that Shri D. Chakraborti had taken over the charge of CCIT, Guwahati on regular basis on 12.08.2002 as per order of the Board after vacation of the order of stay granted by the Hon'ble Tribunal in OA No.181/2002 vide order dated 07.06.2002 thus Shri Chakraborty, CCIT did not violate the order of this Hon'ble Tribunal at any point of time as alleged.

The applicant in his Misc Case No. 1043/2002 in WP (C) No. 3947/2002 had not only prayed for vacation/modification of the interim order dated 21.06.2002 passed by the Hon'ble Guwahati High Court in WP (C) No. 3947/2002 but also prayed to PERMIT him to hold the POST OF CCIT, GUWAHATI. The Hon'ble High Court while passing its order dated 27.08.2002 disposing Misc. Case No. 1043/2002 in WP (C) No. 3947/2002 vacated its own interim order dated 21.06.2002 in WP (C) No. 3947/2002 but did not permit the applicant to hold the post of CCIT, Guwahati as prayed for.



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Since, the question of Applicant's joining as CCIT, Guwahati was already raised before the Hon'ble Guwahati High Court the same question should not be raised again before this Hon'ble Tribunal.

Para 8: In this regard, the Respondents beg to state that filing of Writ Petition was a legal and valid option open to the Respondents. The Writ Petition was admitted by the Hon'ble Guwahati High Court and after hearing both sides under a caveat, the operation of the order of the Hon'ble Tribunal dated 10.04.2002 in OA No. 76/2002 was stayed by an interim order dated 21.06.2002 in WP (C) No. 3947/2002. Thus the impression created by the applicant that the order of this Tribunal was flouted by the Respondents is not correct.

Para 9: In this regard, the Respondents/alleged contemnors beg to submit that there is no willful or intentional delay in implementing the Hon'ble Tribunal's order dated 10.04.2002 in OA No. 76/2002. In fact, after taking legal opinion and consulting the Competent Authorities, a decision was taken on 15th May, 2002 to file a Writ Petition against the order of this Hon'ble Tribunal prior to issuing of the order of the CBDT bearing No. 72/2002, dated 04.06.2002 by which Shri D. Chakraborty was posted as CCIT, Guwahati. In the remark column of the said order the post of CCIT, Guwahati was shown as vacant, merely for the technical reason that this post was not filled up on regular basis but by posting of some CCIT on additional charge.

It is pertinent to mention that the Writ Petition vide WP (C) No. 3947/2002 has not yet been finally decided by the Hon'ble Guwahati High Court even though the interim stay of the order of this Tribunal was subsequently vacated by the Hon'ble High Court as discussed in the foregoing Paras. Now consequent upon the vacation of the interim stay order by the Hon'ble High Court on 27.08.2002 in Misc. case No. 1043/2002 in WP (C) No. 3947/2002, the Respondents by order dated 18.11.2002 (F. No. C-14011/5/2002-V&L) (ANNEXED AS ANNEXURE RC-1) have suspended the operation of the order of suspension in compliance of order dated 10.04.2002 in OA No. 76/2002 passed by this Hon'ble Tribunal. The Respondents by another order vide order No. 181/2002 dated 18.11.2002 {F. No. A-22011/16/2002-Ad-VI (Pt.)} (ANNEXED AS ANNEXURE RC-2) have posted the applicant as CCIT



✓

(OSD), Guwahati, w.e.f. 10.04.2002 the date on which this Hon'ble Tribunal passed the impugned interim order in question.

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The sequence of events will clearly manifest that the Respondents have full regard for the Judiciary and there is no willful or intentional delay or disregard in implementing the impugned interim order of this Hon'ble Tribunal as alleged by the Applicant.

Para 10: Consequent upon the interim stay granted by the Hon'ble Guwahati High Court vide order dated 21.06.2002 against the impugned interim order dated 10.04.2002, this Hon'ble Tribunal by their order dated 06.08.2002 was pleased to dismiss the OA No.181/2002 and also vacated the stay order dated 07.06.2002.

Para 11: The Respondents have no comment to the statement made in Paragraph 11 of the Contempt Petition.

Para 12: Respondents/alleged contemnors have already explained in the foregoing paras that before implementing any order of the Court the Department/Ministry have to consult various authorities and the process takes some time. Immediately on completion of the process, the Respondents/alleged contemnors have suspended the operation of the suspension order dated 18.02.2002 w.e.f. 10.04.2002 and also passed an order posting the applicant as CCIT (OSD), Guwahati w.e.f. the same date by two separate orders dated 18.11.2002 in compliance with the order of this Hon'ble Tribunal. Therefore, the allegations that the Respondents/alleged contemnors have not taken any initiative to comply with the interim order dated 10.04.2002 of this Hon'ble Tribunal is not correct.

Para 13: The Respondents/alleged contemnors have already explained that they have full regard for the Hon'ble Tribunal and there is no willful and intentional delay in implementing the order of this Hon'ble Tribunal. The delay, if any, is only due to procedural formalities in the circumstances as already explained. However, if this Hon'ble Tribunal feels there is any lapse or undue delay which is attributable to the Respondents, which are not willful or intentional, they tender unconditional apology and request the Hon'ble Tribunal to drop the Contempt Proceedings against them.

Ans

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Para 14: The Respondents/alleged contemnors strongly refute the allegation against them by the applicant that they are showing complete disregard to the majesty of this Hon'ble Tribunal by series of illegal acts and omissions with a mind set not to allow the order dated 10.04.2002 to come into force and to subvert the said order. With the implementation of the impugned interim order of the Hon'ble Tribunal w.e.f. 10.04.2002 the Respondents/alleged contemnors have shown full regard for the Hon'ble Tribunal in implementing their order in letter and spirit. Thus the allegations by the applicant against the Respondents/alleged contemnors are unfounded and baseless.

Para 15: In the premises as aforesaid it is most humbly and respectfully submitted before the Hon'ble Tribunal that the allegations by the applicant are not correct and on certain points are misleading, being far from truth. The Respondents/alleged contemnors fervently pray and urge upon the Hon'ble Tribunal to drop the Contempt Proceedings against them.

AND for this act of kindness the Respondents/Alleged contemnors as are duty bound shall ever pray.



(P.K. Sarma)

Chairman, CBDT

VERIFICATION:

I, P.K. Sarma, presently working as Chairman, Central Board of Direct Taxes in the Ministry of Finance & Company Affairs, Department of Revenue, North Block, New Delhi do hereby verify that the contents of foregoing paras are true and correct to the best of my knowledge and belief. I further verify that I have not concealed any material facts.

Verified at New Delhi on this 24th day of December, 2002.


(P.K. Sarma)

Chairman (CBDT)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH GUWAHATI

C.P. NO.44/02

IN

OA NO.76/02

In the matter of :

Dr. J.K. Goyal,
Chief Commissioner of Income-tax,
Uzan Bazaar, Guwahati-I

.....Applicant

Versus

Union of India & ors.

.....Respondents

AFFIDAVIT

I, P.K. Sarma, presently working as Chairman, Central Board of Direct Taxes in the Ministry of Finance & Company Affairs, Department of Revenue, North Block, New Delhi, do solemnly affirm and declare as under:

1. That in my official capacity I am fully conversant with the facts of the present case and am therefore, competent to swear this affidavit .
2. That the Annexures are true copies of their respective originals.



(P.K. Sarma)
Chairman (CBDT)

VERIFICATION :

Verified at New Delhi on this the 24th day of December, 2002 that the contents of the counter reply are true and correct. No part of it is false and nothing material has been concealed therefrom.



(P.K. Sarma)
Chairman (CBDT)

(8) CONFIDENTIAL RC-I
37

F.No.C-14011/5/2002-V&L
Government of India
Ministry of Finance & Company Affairs
Department of Revenue
Central Board of Direct Taxes

New Delhi, the 18th November, 2002

ORDER

Whereas disciplinary proceedings were contemplated against Shri J.K. Goyal, Chief Commissioner of Income Tax, Guwahati;

And Whereas Shri J.K. Goyal was placed under suspension with immediate effect vide order of even number dated the 18th February, 2002 under Rule 10 (2) of the CCS (CCA) Rules, 1965.

And Whereas Shri J.K. Goyal filed an OA No. 76/2002 before Hon'ble Central Administrative Tribunal, Guwahati Bench against the order dated the 18th February, 2002. The Hon'ble CAT vide interim order dated 10.04.2002 suspended the operation of the order F.No.C-14011/5/2002-V&L dated 18.02.2002.

And Whereas Hon'ble Guwahati High Court vide order dated 21.06.2002 in WPC No.3947/2002 (UOI & ors Vs. Shri J.K. Goyal) stayed the operation of the order dated 10.04.2002 passed by the Hon'ble CAT, Guwahati Bench in OA No.76/2002.

And Whereas subsequently, Hon'ble Guwahati High Court vide order dated 27.08.2002 vacated its order dated 21.06.2002 staying the operation of the order passed by the Hon'ble CAT on 10.04.2002 in OA No.76 of 2002.

Now, therefore, in compliance with the order dated 10.04.2002 of CAT, Guwahati Bench, the President is pleased to suspend the operation of the suspension order dated 18.02.2002 with effect from the 10th April, 2002 i.e. the date of the CAT order and till further orders subject to the outcome of WPC No. 3947/2002 pending before the Guwahati High Court and/or any SLP that may be filed before the Hon'ble Supreme Court of India.

(by order and in the name of the President of India)

(Dr. V.K. SINGH)

Under Secretary to the Government of India

Shri J.K. Goyal,
CCIT (under suspension)

(Through O/o CCIT, Guwahati)

Copy to: -

1. The Chief Commissioner of Income Tax, Guwahati.
2. The Director General of Income Tax (Vig.), New Delhi.
3. The Director of Income Tax (Vig.), Kolkata
4. The Under Secretary Ad-VI, CBDT, New Delhi.
5. Ad-VIA/DT (Per).
6. Litigation file
7. Office Copy.
8. Guard file.

(Dr. V.K. SINGH)

Under Secretary to the Government of India

(9) RC-II 38

F.No.A.22011/16/2002-Ad.VI(Pt.)
Government of India
Ministry of Finance & Company Affairs
Department of Revenue
(Central Board of Direct Taxes)

New Delhi, the 18th November, 2002.

ORDER NO.181 of 2002

Consequent upon the revocation of the operation of the suspension order dated 18.2.20002(F.NO.14011/5/2002-V&L) with effect from 10.4.2002, Shri J.K. Goyal(69002) CCIT is posted as CCIT(OSD), Guwahati with effect from 10.4.2002 and until further orders.




(P.C. BHATT)

Under Secretary to the Government of India

Copy to: -

1. Officer concerned.
2. All Chief Commissioners/Directors General of Income Tax.
3. Principal Chief Controller of Accounts, New Delhi.
4. Zonal Accounts Officer, CBDT, C/o CCIT concerned.
5. DIT(IT)/DIT(RSP&PR)/DIT(Audit)/DIT(Vig.)/DIT(Systems)/DIT(O&M S)/ DIT(Spl. Inv.)
6. Pssto FM/MOS(R)/Secy.(R)/AS(R)/Chairman,CBDT/Members,CBDT/ JS (Admn.)CBDT/JS(R)/DS(Hqrs/Admn.)/Directors, CBDT/DSs CBDT.
7. US (Hqrs/Per)/ Pers.DT/US (Ad.VI(A)/ Ad.VII/ ITCC/ OT/ Computer Cell/ Hindi Section.



(P.C. BHATT)

Under Secretary to the Government of India



24 JAN 2003
GUWAHATI BENCH

D. Chakraborti - OP No. 3
through -
Anup Kumar
24/1/03
39

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH GUWAHATI

C.P. NO. 44/02

IN

OA NO. 76/02

In the matter of :

Dr. J. K. Goyal,

Chief Commissioner of Income Tax,

Uzan Bazar, Guwahati-I

.....

Applicant

Versus

Union of India & Ors.

.....

Respondents

22

Affidavit

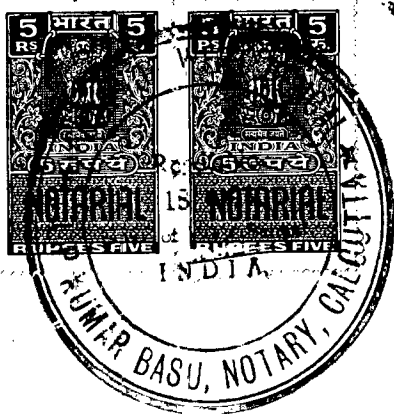
Reply on Behalf of the Respondent No.3 in CP No.44/02 in OA No.76/02

I, D. Chakraborti, Chief Commissioner of Income Tax, Kolkata-II, Kolkata, do hereby solemnly affirm and state as under :

That the respondent contemner has the highest regard for the Hon'ble Tribunal and therefore, there is no question of any wilful disobedience to the order of this Hon'ble Tribunal. That the answering respondent most humbly submits that he has acted on the legal advice tendered to him.

That the answering respondent has gone through the contents of the Contempt Petition and has fully understood the same. At the very outset the answering respondent denies each and every allegation and averment of law and facts made against him in the contempt petition, save and except specifically admitted hereinafter.

Contd.....2



30 DEC 2002

- Para-1** The Order of Suspension dated 18/02/2002 of the Applicant was suspended by the Hon'ble Tribunal by an interim order dated 10-04-2002 but the Respondents had assailed the legality of the impugned order by filing a Writ before the Hon'ble Gauhati High Court vide WP(C)-3947/2002 which is still pending for disposal.
- Para-2** It refers to the periods where the Respondents were seeking legal opinion, approval of the DOP & T and also the Ministry of Law in accordance with DOP&T &T's OM No.28027/9/99-Estt.(A), dated 01-05-2000 (copy enclosed as Annexure 'A') on the question of the implementation of the said order of the Hon'ble Tribunal or otherwise.
- Para-3** Pursuant to the said interim order of the Hon'ble Tribunal the Applicant resumed his duties by intimation to Respondent No.3 on 12-04-2002. But it was not correct that the Petitioner was not provided with official vehicle as alleged.
- Para-4** The Applicant has completely misunderstood the situation that arose immediately after his suspension and its aftermath continuance. As a matter of fact, the order of suspension was immediately followed by another order by which Shri E.J. Mawlong, CCIT, Shillong had assumed the Additional Charge of the CCIT, Guwahati prior to 10-04-2002 - the date on which the Hon'ble Tribunal passed impugned order simply suspending the order of suspension. In the said impugned order of the Hon'ble Tribunal it was nowhere mentioned that the Applicant should be allowed to join as the CCIT, Guwahati. The post of CCIT, Guwahati was never left vacant after suspension of Shri J.K. Goyal, CCIT on 18-02-2002. After retirement of Shri E.J. Mawlong, CCIT, Guwahati on superannuation the charge of this post was taken over by Shri D. Chakraborti, as CCIT, Guwahati by an order of the Board. Thus the Applicant did not have the charge of CCIT, Guwahati at any point of time subsequent to his suspension and therefore, the presumption that the Applicant continued to be the CCIT, Guwahati consequent upon the interim order of the Tribunal dt. 10-04-2002 in OA 76/2002, is not correct.
- Para-5** As regards Applicant's resuming duties as CCIT, Guwahati the position has been clarified in para-4 above. As regards withdrawal of official Telephone No.518199 the Respondents hereby clarify that the Applicant after joining as the CCIT, Guwahati, was staying in a transit camp meant for touring officers housed in the hired Red Cross Bhawan, Uzan Bazar, Guwahati in which the said telephone was installed. The transit Camp had one bedroom with attached bathroom and kitchen facility and was neither a Guest House nor an official accommodation suitable to the status of the CCIT. Since this was not an official allotment the Applicant was all along drawing the House Rent allowance as well. It was during the tenure of the Applicant and prior to his suspension 18-02-2002, the process of de-hiring the said Red Cross Bhawan was set in progress and the land and building committee also recommended on 20-09-2001 and 18-01-2002 the de-hiring of the said building. The Applicant can not implead ignorance of all these developments, more so when he was officially informed about the de-hiring process which naturally called for shifting of all Govt. Assets including the telephone as indicated by the Applicant. Therefore, the submissions of the Applicant are not correct and they are misleading being far from truth.

Contd.... 3



30 DEC 2002

Part-6

The Respondents assailed the legality of the impugned interim order of the Hon'ble Tribunal in a Writ Petition No.WP(C)-3947/2002 before the Hon'ble High Court which by an interim order dated 21-06-2002 had stayed the impugned order of this Hon'ble Tribunal and it remained in force till 27-08-2002 - the date on which the Hon'ble High Court had vacated its own interim order dated 21-06-2002 in a misc. Case No.1043/2002 in WP(C)-3947/2002 filed by the Applicant. Thereafter within a period of three month the Respondents have implemented the impugned interim order of the Hon'ble Tribunal and posted the Applicant as CCIT(OSD), Guwahati w.e.f. 10-04-2002. Consequently full pay and allowance of the Applicant has been released for the month of November, 2002 and his arrear bill w.e.f. 10-04-2002 is also under preparation. The delay has been caused due to procedural formalities the Respondents has to accomplish and for this delay they tender unqualified apology before the Hon'ble Tribunal.

Part-7

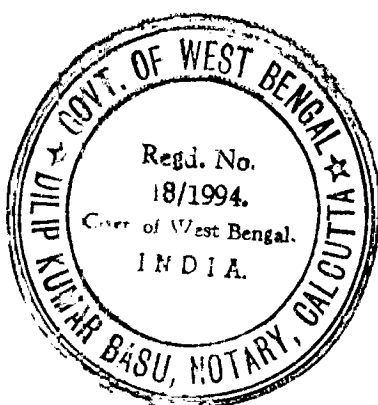
Shri D. Chakraborti had assumed the charge of CCIT, Guwahati as per order of the Board - his higher authority during the period when the Hon'ble Tribunal's impugned interim order dated 10-04-2002 was not in operation because of the interim stay granted by the Hon'ble Guwahati High Court as discussed in para-6 above. Moreover, Shri D. Chakraborti, has taken over the charge of CCIT, Guwahati from Shri E. J. Mawlong, CCIT, - (Retd.) who held the Charge of CCIT, Guwahati prior to 10-04-2002 and before filing of OA 76/2002 by the Applicant. Shri Mawlong, CCIT, Guwahati retired on Superannuation on 28-02-2002 and Shri D. Chakraborti took over the charge of CCIT, Guwahati.

The Respondents further submit that Shri D. Chakraborti had taken over the charge of CCIT, Guwahati on regular basis on 12-08-2002 as per order of the Board after vacation of the order of stay granted by the Hon'ble Tribunal in OA 181/2002 vide order dated 07-06-2002 thus Shri Chakraborti, CCIT did not violate the order of this Hon'ble Tribunal at any point of time as alleged.

The Applicant in his Misc. Case No.1043/2002 in WP(C) No. 3947/2002 had not only prayed for vacation/modification of the interim order dated 21-06-2002 passed by the Hon'ble Guwahati High Court in WP(C) No.3947/2002 but also prayed to PERMIT him to hold the POST OF CCIT, GUWAHATI. The Hon'ble High Court while passing its order dated 27-08-2002 disposing Misc. Case No.1043/2002 in WP(C) No.3947/2002 vacated its own interim order dt. 21-06-2002 in WP(C) No.3947/2002 but did not permit the Applicant to hold the post of CCIT, Guwahati as prayed for.

Since the question of Applicant's joining as CCIT, Guwahati was already raised before the Hon'ble Guwahati High Court the same question should not be raised again before this Hon'ble Tribunal.

Contd.....4



30 DEC 2002

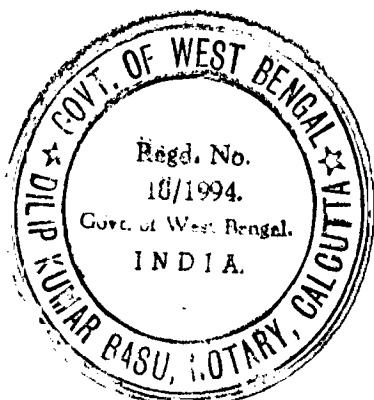
Para-8 In this regard the Respondents beg to state that filing of Writ Petition was a legal and valid option open to the Respondents. The Writ Petition was admitted by the Hon'ble Guwahati High Court and after hearing both sides under a caveat, the operation of the order of the Hon'ble Tribunal dated 10-04-2002 in OA No. 76/2002 was stayed by an interim order dated 21-06-2002 in WP(C) No.3947/2002. Thus the impression created by the Applicant that the order of this Tribunal was flouted by the Respondents is not correct.

Para-9 In this regard the Respondents/alleged contemnors beg to submit that as per DOP&T's OM No.2802/9/99-Estt-A, dt. 01-05-2000, it is stipulated that the Department of Personnel & Training and the Ministry of Law have to be consulted before implementing Court's orders. Therefore, there is no wilful or intentional delay in implementing the Hon'ble Tribunal's order dated 10-04-2002 in OA 76/2002. In fact, after taking legal opinion and consulting the Competent Authorities it was decided to file a Writ Petition assailing the validity of the order of this Hon'ble Tribunal prior to issuing of the order of the CBDT bearing No.72/2002, dt. 04-06-2002 by which Shri D. Chakraborti was posted as CCIT, Guwahati. In the remark column of the said order the post of CCIT, Guwahati was shown as vacant, merely for the technical reason that his post was not filled up on regular basis but by posting of some CCIT on additional charge.

The Respondents ultimately filed a Writ Petition vide WP(C) No.3947/2002 on 14-6-2002 vide filing Sl. No.12035/2002 clearly shows that necessary administrative approval etc., to assail the legality of the order dated 10-04-2002 of this Hon'ble Tribunal was obtained prior to passing of the Board's order dated 04-06-2002. It is also pertinent to mention that the Writ Petition vide WP(C) No.3947/2002 has not yet been finally decided by the Hon'ble Gauhati High Court even though the interim stay of the order of this Tribunal was subsequently vacated by the Hon'ble High Court as discussed in the foregoing Paras. Now consequent upon the vacation of the interim stay order by the Hon'ble High Court on 27-08-2002 in Misc. Case No.1043/2002 in WP(C) No.3947/2002, the Respondents/alleged contemnors by order dated 18-11-2002 (F.No.C-14011/5/2002-V&L) have suspended the operation of the order of suspension in compliance of order dated 10-04-2002 in OA 76/2002 passed by this Hon'ble Tribunal. The Respondents/alleged contemnors by another order vide order No.181/2002, dt. 18-11-2002 (F.No.A-22011/16/2002-AD-VI(Pt)) posted the Applicant as CCIT, (OSD), Guwahati, w.e.f. 10-04-2002 - the date on which this Hon'ble Tribunal has passed the impugned interim order in question.

The sequence of events will clearly manifest that the Respondents/alleged contemner have full regard for the Judiciary and there is no wilfull or intentional delay or disregard in implementing the impugned interim order of this Hon'ble Tribunal as alleged by the Applicant.

Contd....5



30 DEC 2002

Para-10 Consequent upon the interim stay granted by the Hon'ble Gauhati High Court vide order dated 21-06-2002 against the impugned interim order dated 10-04-2002, this Hon'ble Tribunal by their order dated 06-08-2002 was pleased to dismissed the OA 181/2002 and also vacated the stay order dated 07-06-2002.

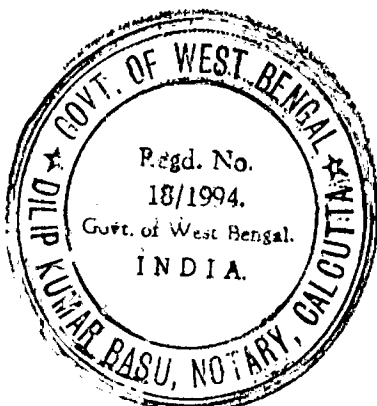
Para-11 The Respondents have no comment to the statement made in Paragraph 11 of the Contempt Petition.

Para-12 Respondents/alleged contemnners have already explained in the foregoing paras that before implementing any order of the Court the Department/Ministry have to consult the Ministry of Law and Department of Personnel & Training and the process logically takes some time to accomplish. Immediately on completion of the process, the Respondents/alleged contemnners have suspended the operation of the suspension order dated 18-02-2002 w.e.f. 10-04-2002 and also passed an order posting the applicant as CCIT (OSD) Guwahati w.e.f. the same date by two separate orders of even dated 18-11-2002 in compliance to the order of this Hon'ble Tribunal. Therefore the allegations that the Respondents/alleged contemnners have not taken any initiative to comply with the interim order dated 10-04-2002 of this Hon'ble Tribunal is hypothetical and is not correct.

Para-13 The Respondents/alleged contemnners have already explained that they have full regard for the Judiciary and there is no wilfull and intentional delay in implementing the order of this Hon'ble Tribunal. The delay, if any, is only for the procedural in the circumstances as already explained. However, if this Hon'ble Tribunal feels there is any taps or undue delay which are attributable to the Respondents/alleged contemnners which are not wilfull or intentional they seek unconditional apology and urge upon to drop the contempt proceedings against them.

Para-14 The Respondents/alleged contemnners strongly averts the allegation against them by the applicant that they are showing complete disregards to the majesty of this Hon'ble Tribunal by series of illegal acts and omissions with a mind set not to allow the order dated 10-04-2002 to come into force and to subvert the said order. With the implementation of the impugned interim order of the Hon'ble Tribunal w.e.f. 10-04-2002 the Respondents/alleged contemnners have shown full regard to the judiciary in implementing their order in letter and spirit. Thus the allegations by the applicant against the Respondents/alleged contemnners are unfounded and baseless.

Contd.....⁶



30 DEC 2002

Para-15

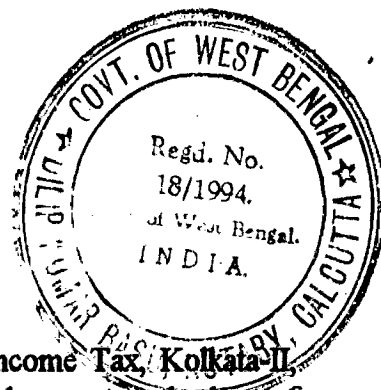
In the premises as aforesaid it is most humbly and respectfully submitted before the Hon'ble Tribunal that the allegations by the applicant are not correct and on certain points are misleading being far from truth. The Respondents/alleged contemnors fervently pray and urge upon the Hon'ble Tribunal to drop the contempt proceedings against them.

AND for this act of kindness the Respondents/alleged contemnors as are duty bound shall ever pray.


(D. CHAKRABORTI)

CHIEF COMMISSIONER OF INCOME TAX, KOLKATA-II, KOLKATA

VERIFICATION



I, D. Chakraborti, working as Chief Commissioner of Income Tax, Kolkata-II, Kolkata, do hereby verify that the contents of foregoing paras are true and correct to the best of my knowledge and belief. I further verify that I have not concealed any material facts.

Verified at Kolkata on this 30th day of December, 2002.

IDENTIFIED BY


(D. CHAKRABORTI)

CHIEF COMMISSIONER OF INCOME TAX, KOLKATA-II, KOLKATA

Swapen Kumar Banerjee (Advocate)
CMM'S Court (Regd. No. 359/1983)

30/12/02

CLEMELY AFFIRMED & DECLARED BEFORE ME ON IDENTIFICATION OF ADVOCATE.

DILIP KUMAR BASU.

Notary, Govt. of West Bengal.

Regd. No 18/1994 C. M.C's Court.

6, Dalhousie Street, Calcutta-700 001

30 DEC 2002

7 MS

**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH GUWAHATI**

C.P. NO. 44/02

IN

OA NO. 76/02

In the matter of :

Dr. J. K. Goyal,

Chief Commissioner of Income Tax,

Uzan Bazar, Guwahati-I

.....

Applicant

Versus

Union of India & Ors.

.....

Respondents

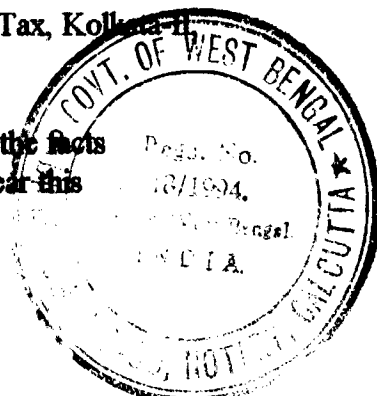
23 2 **AFFIDAVIT**

I, D. Chakraborti working as Chief Commissioner of Income Tax, Kolkata-II, Kolkata, do solemnly affirm and declare as under :

That in my official capacity I am fully conversant with the facts of the present case and am therefore, competent to swear this affidavit


(D. CHAKRABORTI)

CHIEF COMMISSIONER OF INCOME TAX, KOLKATA-II, KOLKATA



VERIFICATION

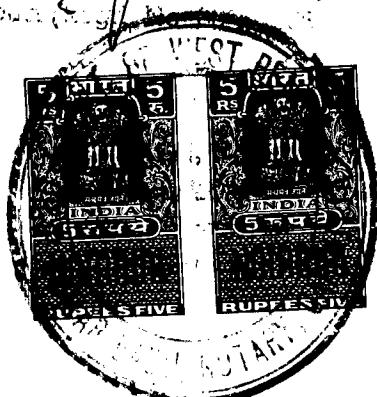
Verified at Kolkata on this the 30th day of December, 2002 that the contents of the counter reply are true and correct. No part of it is false and nothing material has been concealed therefrom.


(D. CHAKRABORTI)

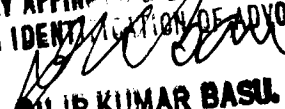
CHIEF COMMISSIONER OF INCOME TAX, KOLKATA-II, KOLKATA

IDENTIFIED BY

Swapan Kumar Basu (Advocate)
30/12/02



**SOLEMNLY AFFIRMED & DECLARED BEFORE
ME ON IDENTIFICATION OF ADVOCATE:**


DILIP KUMAR BASU,

Notary, Govt. of West Bengal
Regd No. 18/1994 C.M.C's Court
4, Bankshall Street Calcutta-700 001

30 DEC 2002

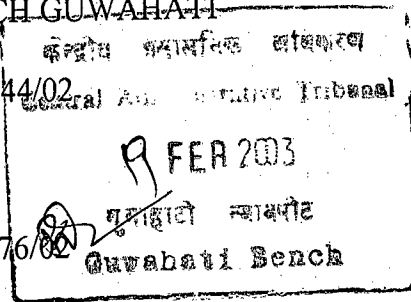
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH GUWAHATI

C.P. NO. 44/02

IN

OA NO. 76/02



Filed by:-
H. V. Singh
-O.P. No. 1
through:-
Pratap Kumar Choudhary
19/2/03
Asst. Central Govt
Standing Commr.

In the matter of :

Dr. J.K. Goyal,

Chief Commissioner of Income-tax,

Uzan Bazaar, Guwahati-I

.....Applicant

Versus

Union of India & ors.

.....Respondents

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| 3. | Annexure RC-2 | 9 |

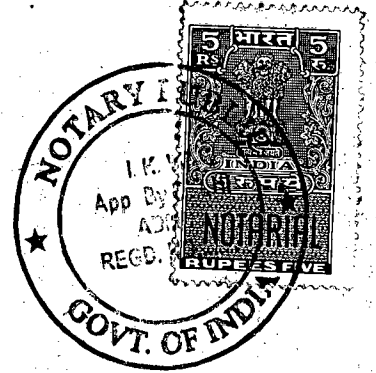
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH GUWAHATI

C.P. NO.44/02

IN

OA NO.76/02



In the matter of :

Dr. J.K. Goyal,
Chief Commissioner of Income-tax,
Uzan Bazar, Guwahati-I

.....Applicant

Versus

Union of India & ors.

.....Respondents

AFFIDAVIT

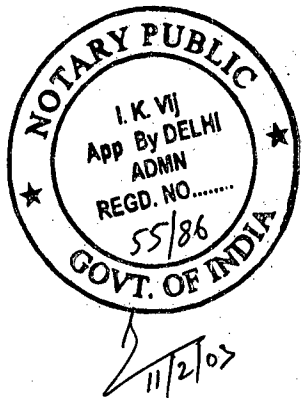
REPLY ON BEHALF OF THE RESPONDENT NO.1-IN CP NO.44/02 IN OA NO.76/02

I, A.V. Singh, previously posted as Secretary (Revenue), Ministry of Finance, Government of India from 01.08.2002 till 25.10.2002, and now posted as Secretary, Ministry of Non-Conventional Energy Sources, Government of India, from 25.10.2002 do hereby solemnly affirm and state as under:

That the answering respondent has gone through the contents of the Contempt Petition and has fully understood the same. At the very outset the answering respondent denies each and every allegation and averment of law and facts made against him in the contempt petition, save and except specifically admitted hereinafter. The parwise replies furnished below are based on official records.

Para 1 : The Order of Suspension dated 18.02.2002 of the Applicant was suspended by the Hon'ble Tribunal by an interim order dated 10.04.2002 but the Respondents had filed a writ against the impugned order before the Hon'ble Guwahati High court vide WP (C)- No.3947/2002 on 14.06.2002, which is still pending for disposal.

Para 2: It refers to the periods where the Respondents were holding consultations and seeking legal opinion, on the question of implementation of the said order of the Hon'ble Tribunal or otherwise.



I. K. VIJ

Notary Public

Chamber No. 10, Patiala House
NEW DELHI-110001
Ph.- 3389734

Para 3:

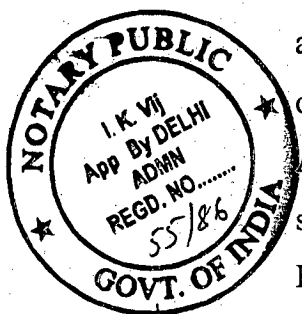
Pursuant to the said interim order of the Hon'ble Tribunal the Applicant sent an intimation on 12.04.2002 regarding resumption of duties as CCIT. However, Shri D. Chakravorty was holding additional charge as CCIT, Guwahati as on 12.04.2002.

Para 4:

The Applicant has completely misunderstood the situation that arose immediately after his suspension and its continuance. As a matter of fact, the order of suspension was immediately followed by another order dated 19.02.2002 by which Shri E.J. Mawlong, CCIT, Shillong was directed to hold the Additional Charge of the CCIT, Guwahati. After retirement of Shri E.J. Mawlong, CCIT, Guwahati on 28.02.2002 the charge of this post was taken over by Shri D. Chakravorty, as CCIT, Guwahati by an order of the Board dated 28.02.2002. Therefore, the post of CCIT, Guwahati was never left vacant after suspension of Shri J.K. Goyal, CCIT on 18.02.2002. The applicant did not have the charge of CCIT, Guwahati at any point of time subsequent to his suspension and therefore, the presumption that the applicant continued to be the CCIT, Guwahati consequent upon the interim order of the Tribunal dated 10.04.2002 in OA No.76/2002, is not correct.

Para 5:

As regards Applicant's resuming duties as CCIT, Guwahati the position has been clarified in Para 4 above. As regards withdrawal of official Telephone No. 519199 the Respondents hereby clarify that the Applicant after joining as the CCIT, Guwahati was staying in a transit camp meant for touring officers housed in the hired Red Cross Bhawan, Uzan Bazaar, Guwahati in which the said telephone was installed. The transit Camp had one bedroom with attached bathroom and kitchen facility and was neither a Guest House nor an official accommodation suitable to the status of the CCIT. Since this was not an official allotment the Applicant was all along drawing the House rent Allowance as well. It was during the tenure of the Applicant and prior to his suspension on 18.02.2002, that the process of de-hiring the said Red Cross Bhawan was set in motion and the land and building committee also recommended on 20.09.2001 and 18.01.2002 the de-hiring of the said building. The Applicant can not plead ignorance of all these developments, more so when he was officially informed about the de-hiring process, which naturally called for shifting of all Govt. assets including the telephone as indicated by the Applicant. Therefore, the submissions of the Applicant are not correct and they are misleading, being far from truth.



Para 6:

The Respondents filed a Writ Petition No. WP (C) No.3947/2002 before the Hon'ble High Court on 14.06.2002, which by an interim order dated

[Handwritten signature and date 11/2/03]

21.06.2002 had stayed the impugned order of this Hon'ble Tribunal. The stay remained in force till 27.08.2002 – the date on which the Hon'ble High Court vacated its own interim order dated 21.06.2002 in a Misc. Case No. 1043/2002 in WP (C) No.3947/2002 filed by the applicant. Thereafter, the Respondents have implemented the interim order of the Hon'ble Tribunal dated 10.04.2002 and posted the applicant as CCIT (OSD), Guwahati w.e.f. 10.04.2002. Consequently, full pay and allowances of the Applicant have been released for the month of November, 2002 and his arrear bill w.e.f. 10.04.2002 has also been cleared. The delay has been caused due to procedural formalities and for this delay the Respondents tender unqualified apology before this Hon'ble Tribunal.

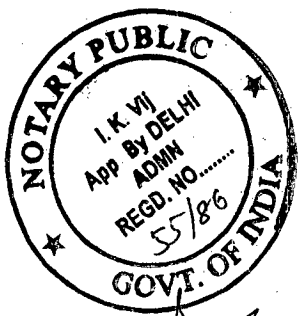
Para 7: Shri D. Chakraborty had assumed the additional charge of CCIT, Guwahati w.e.f. 28.02.2002, well before Hon'ble Tribunal's interim Order dated 10.04.2002. The position in this regard has been indicated in Para 4 above.

The Respondents further submit that Shri D. Chakraborti had taken over the charge of CCIT, Guwahati on regular basis on 12.08.2002 as per order of the Board after vacation of the order of stay granted by the Hon'ble Tribunal in OA No.181/2002 vide order dated 07.06.2002. Thus, Shri Chakraborty, CCIT did not violate the order of this Hon'ble Tribunal at any point of time as alleged.

The applicant in his Misc Case No. 1043/2002 in WP (C) No. 3947/2002 had not only prayed for vacation/modification of the interim order dated 21.06.2002 passed by the Hon'ble Guwahati High Court in WP (C) No. 3947/2002 but also prayed to PERMIT him to hold the POST OF CCIT, GUWAHATI. The Hon'ble High Court while passing its order dated 27.08.2002 disposing Misc. Case No. 1043/2002 in WP (C) No. 3947/2002 vacated its own interim order dated 21.06.2002 in WP (C) No. 3947/2002 but did not permit the applicant to hold the post of CCIT, Guwahati as prayed for.

Since, the question of Applicant's joining as CCIT, Guwahati was already raised before the Hon'ble Guwahati High Court the same question should not be raised again before this Hon'ble Tribunal.

Para 8: In this regard, the Respondents beg to state that filing of Writ Petition was a legal and valid option open to the Respondents. The Writ Petition was admitted by the Hon'ble Guwahati High Court and after hearing both sides under a caveat, the operation of the order of the Hon'ble Tribunal dated 10.04.2002 in



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OA No. 76/2002 was stayed by an interim order dated 21.06.2002 in WP (C) No. 3947/2002. Thus the impression created by the applicant that the order of this Tribunal was flouted by the Respondents is not correct.

Para 9:

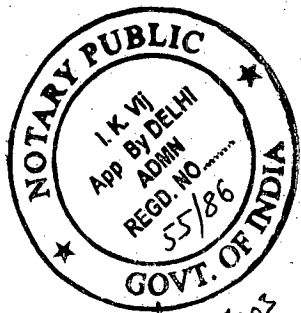
In this regard, the Respondents/alleged contemnors beg to submit that there is no willful or intentional delay in implementing the Hon'ble Tribunal's order dated 10.04.2002 in OA No. 76/2002. In fact, after taking legal opinion and consulting the Competent Authorities, a decision was taken on 15th May, 2002 to file a Writ Petition against the order of this Hon'ble Tribunal prior to issuing of the order of the CBDT bearing No. 72/2002, dated 04.06.2002 by which Shri D. Chakraborty was posted as CCIT, Guwahati. In the remark column of the said order the post of CCIT, Guwahati was shown as vacant, merely for the technical reason that this post was not filled up on regular basis but by posting of some CCIT on additional charge.

It is pertinent to mention that the Writ Petition vide WP (C) No. 3947/2002 has not yet been finally decided by the Hon'ble Guwahati High Court even though the interim stay of the order of this Tribunal was subsequently vacated by the Hon'ble High Court as discussed in the foregoing Paras. Now consequent upon the vacation of the interim stay order by the Hon'ble High Court on 27.08.2002 in Misc. case No. 1043/2002 in WP (C) No. 3947/2002, the Respondents by order dated 18.11.2002 (F. No. C-14011/5/2002-V&L) (ANNEXED AS ANNEXURE RC-1) have suspended the operation of the order of suspension in compliance of order dated 10.04.2002 in OA No. 76/2002 passed by this Hon'ble Tribunal. The Respondents by another order vide order No. 181/2002 dated 18.11.2002 {F. No. A-22011/16/2002-Ad-VI (Pt.)} (ANNEXED AS ANNEXURE RC-2) have posted the applicant as CCIT (OSD), Guwahati, w.e.f. 10.04.2002 the date on which this Hon'ble Tribunal passed the impugned interim order in question.

The sequence of events will clearly manifest that the Respondents have full regard for the Judiciary and there is no willful or intentional delay or disregard in implementing the impugned interim order of this Hon'ble Tribunal as alleged by the Applicant.

Para 10:

Consequent upon the interim stay granted by the Hon'ble Guwahati High Court vide order dated 21.06.2002 against the impugned interim order dated 10.04.2002, this Hon'ble Tribunal by their order dated 06.08.2002 was pleased to dismiss the OA No.181/2002 and also vacated the stay order dated 07.06.2002.



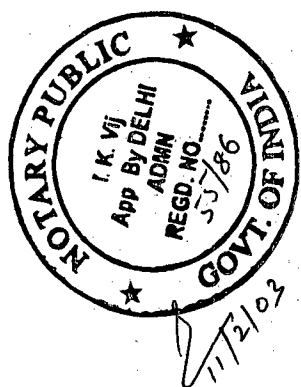
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Para 11: The Respondents have no comment to the statement made in Paragraph 11 of the Contempt Petition.

Para 12: Respondents/alleged contemnors have already explained in the foregoing paras that before implementing any order of the Court the Department/Ministry have to consult various authorities and the process takes some time. Immediately on completion of the process, the Respondents/alleged contemnors have suspended the operation of the suspension order dated 18.02.2002 w.e.f. 10.04.2002 and also passed an order posting the applicant as CCIT (OSD), Guwahati w.e.f. the same date by two separate orders dated 18.11.2002 in compliance with the order of this Hon'ble Tribunal. Therefore, the allegations that the Respondents/alleged contemnors have not taken any initiative to comply with the interim order dated 10.04.2002 of this Hon'ble Tribunal is not correct.

Para 13: The Respondents/alleged contemnors have already explained that they have full regard for the Hon'ble Tribunal and there is no willful and intentional delay in implementing the order of this Hon'ble Tribunal. The delay, if any, is only due to procedural formalities in the circumstances as already explained. However, if this Hon'ble Tribunal feels there is any lapse or undue delay which is attributable to the Respondents, which are not willful or intentional, they tender an unconditional apology and request the Hon'ble Tribunal to drop the Contempt Proceedings against them.

Para 14: The Respondents/alleged contemnors strongly refute the allegation against them by the applicant that they are showing complete disregard to the majesty of this Hon'ble Tribunal by a series of illegal acts and omissions with a mind set not to allow the order dated 10.04.2002 to come into force and to subvert the said order. With the implementation of the impugned interim order of the Hon'ble Tribunal w.e.f. 10.04.2002 the Respondents/alleged contemnors have shown full regard for the Hon'ble Tribunal in implementing their order in letter and spirit. Thus the allegations by the applicant against the Respondents/alleged contemnors are unfounded and baseless.



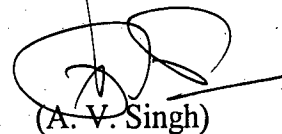
Para 15: That the respondent contemnor has the highest regard for the Hon'ble Tribunal and therefore, there is no question of any willful disobedience to the order of this Hon'ble Tribunal. That the answering respondent most humbly submits that he has acted on the legal advice tendered to him.

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Para 16:

In the premises as aforesaid it is most humbly and respectfully submitted before the Hon'ble Tribunal that the allegations by the applicant are not correct and on certain points are misleading, being far from truth. The Respondents/alleged contemnors fervently pray and urge upon the Hon'ble Tribunal to drop the Contempt Proceedings against them.

AND for this act of kindness the Respondents/Alleged contemnors as are duty bound shall ever pray.

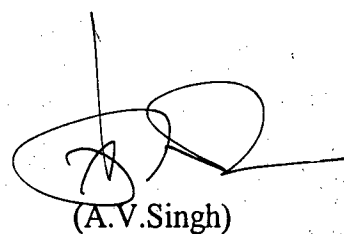

(A. V. Singh)

Min. of
Secretary, Non-Conventional Energy Sources
Govt of India

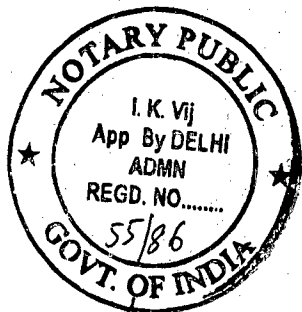
VERIFICATION:

I, A.V. Singh, previously posted as Secretary (Revenue), Ministry of Finance, Government of India and now posted as Secretary, Ministry of Non-Conventional Energy Sources, Government of India, do hereby verify that the contents of the foregoing paras are true and correct and based on official records. I further verify that I have not concealed any material facts.

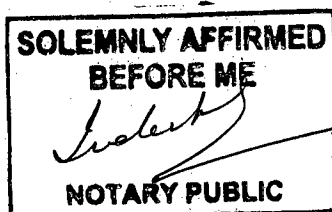
Verified at New Delhi on this 11th day of February, 2003.


(A. V. Singh)

Min. of
Secretary, Non-Conventional Energy Sources
Govt of India



11/2/03



11/2/03

7

(8) CONFIDENTIAL RC-11-ES

F.No.C-14011/5/2002-V&L
Government of India
Ministry of Finance & Company Affairs
Department of Revenue
Central Board of Direct Taxes

New Delhi, the 18th November, 2002

ORDER

Whereas disciplinary proceedings were contemplated against Shri J.K. Goyal, Chief Commissioner of Income Tax, Guwahati;

And Whereas Shri J.K. Goyal was placed under suspension with immediate effect vide order of even number dated the 18th February, 2002 under Rule 10 (2) of the CCS (CCA) Rules, 1965.

And Whereas Shri J.K. Goyal filed an OA No. 76/2002 before Hon'ble Central Administrative Tribunal, Guwahati Bench against the order dated the 18th February, 2002. The Hon'ble CAT vide interim order dated 10.04.2002 suspended the operation of the order F.No.C-14011/5/2002-V&L dated 18.02.2002.

And Whereas Hon'ble Guwahati High Court vide order dated 21.06.2002 in WPC No.3947/2002 (UOI & ors Vs. Shri J.K. Goyal) stayed the operation of the order dated 10.04.2002 passed by the Hon'ble CAT, Guwahati Bench in OA No.76/2002.

And Whereas subsequently, Hon'ble Guwahati High Court vide order dated 27.08.2002 vacated its order dated 21.06.2002 staying the operation of the order passed by the Hon'ble CAT on 10.04.2002 in OA No.76 of 2002.

Now, therefore, in compliance with the order dated 10.04.2002 of CAT, Guwahati Bench, the President is pleased to suspend the operation of the suspension order dated 18.02.2002 with effect from the 10th April, 2002 i.e. the date of the CAT order and till further orders subject to the outcome of WPC No. 3947/2002 pending before the Guwahati High Court and/or any SLP that may be filed before the Hon'ble Supreme Court of India.

(by order and in the name of the President of India)

self
(Dr. V.K. SINGH)

Under Secretary to the Government of India

Shri J.K. Goyal,
CCIT (under suspension)

(Through O/o CCIT, Guwahati)

Copy to: -

1. The Chief Commissioner of Income Tax, Guwahati.
2. The Director General of Income Tax (Vig.), New Delhi.
3. The Director of Income Tax (Vig.), Kolkata
4. The Under Secretary Ad-VI, CBDT, New Delhi.
5. Ad-VIA/DT (Per).
6. Litigation file
7. Office Copy.
8. Guard file.

to me muds
(Dr. V.K. SINGH)

Under Secretary to the Government of India

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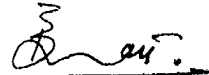
RC-II
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F.No.A.22011/16/2002-Ad.VI(Pt.)
Government of India
Ministry of Finance & Company Affairs
Department of Revenue
(Central Board of Direct Taxes)

New Delhi, the 18th November, 2002.

ORDER NO.181 of 2002

Consequent upon the revocation of the operation of the suspension order dated 18.2.20002(F.NO.14011/5/2002-V&L) with effect from 10.4.2002, Shri J.K. Goyal(69002) CCIT is posted as CCIT(OSD), Guwahati with effect from 10.4.2002 and until further orders.

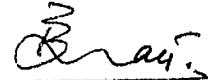


(P.C. BHATT)

Under Secretary to the Government of India

Copy to: -

1. Officer concerned.
2. All Chief Commissioners/Directors General of Income Tax.
3. Principal Chief Controller of Accounts, New Delhi.
4. Zonal Accounts Officer, CBDT, C/o CCIT concerned.
5. DIT(IT)/DIT(RSP&PR)/DIT(Audit)/DIT(Vig.)/DIT(Systems)/DIT(O&M S)/ DIT(Spl. Inv.)
6. Pssto FM/MOS(R)/Secy.(R)/AS(R)/Chairman,CBDT/Members,CBDT/ JS (Admn.)CBDT/JS(R)/DS(Hqrs/Admn.)/Directors, CBDT/DSs CBDT.
7. US (Hqrs/Per)/ Pers.DT/US (Ad.VI(A)/ Ad.VII/ ITCC/ OT/ Computer Cell/ Hindi Section.



(P.C. BHATT)

Under Secretary to the Government of India



