

30/100

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05**

4

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

FORM NO. 4  
 (See Rule 42 )  
 CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.  
 GUWAHATI.

ORDER SHEET

Original No. 181 /2002  
 Misc. Petition No.             
 Contempt Petition No.             
 Review Application No.           

Applicant(s) Sri J.K. Goyal

-vs-

Respondent(s) Union of India & Ors.

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

Advocate for Respondent(s) Addl. C.G.S.C. A.K. Choudhry

Notes of the Registry	Date	ORDER OF THE TRIBUNAL
<p>79 574 692                      13/57.02                      16/6/02                      mb</p> <p>slips taken with                      Encls.</p>	<p>7.6.02</p>	<p>Put up the matter before a bench                      excluding one of us ( K.K.Sharma, Member                      (A).</p> <p><i>K.K.Sharma</i>                      Member</p> <p><i>[Signature]</i>                      Vice-Chairman</p>

FORM NO. 4  
( See Rule 42 )

**In The Central Administrative Tribunal**  
GUWAHATI BENCH : GUWAHATI

ORDER SHEET  
APPLICATION NO. 181/2002

~~OF 199~~

Applicant(s) J. K. Goyal

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

Advocate for Applicant(s) Mrs. Boko Sharma, Mrs. S. Sarma, Miss U. Das

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

Notes of the Registry	Date	Order of the Tribunal
<p>76-574592 13/5/02 H.C.D. 6/6/02 Steps &amp; envelope taken.</p> <p>Notice prepared and sent to S/O for filing the Respondent No 1 to 4 by: Legd. A/A.</p> <p>20/6/02 S/No 172/1024 Dtd 11/6/02 Received COP/TA 14/06/02</p>	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>

Vice-Chairman

Notes of the Registry

Date

Order of the Tribunal

27.6.02

List on 28.6.02 excluding one of us (Mr. K.K. Sharma, Administrative Member

*K.K. Sharma*  
Member

*[Signature]*  
Vice-Chairman

lm

28.6.02

List on 26.7.02 as prayed by Mr. A.K. Choudhury, learned Addl. C.G.S.C. for the respondents.

*[Signature]*  
Vice-Chairman

lm

26.7.02

This case can not be heard by me. Put up before another Bench, excluding me.

*K.K. Sharma*

*K.K. Sharma*  
Member

lm

18.7.02

*W/s submitted  
by the respondent Nos.  
1, 2, 3 and 4.*

2/8

*The assistance of the lawyers, the case is left over to 6/8/02.*

*Mrs. A.K. Sharma*  
2/8

6.8.2002

Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is dismissed. The Interim Order dated 10.4.2002 stands vacated.

No order as to costs.

*[Signature]*  
Vice-Chairman

nkm

*Received copy of  
Judgment  
Alsha Das  
16/8/02*

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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 181 of 2002

Date of Decision 6.8.2002

Dr J.K. Goyal ----- Petitioner(S)

Mr B.K. Sharma, Mr S. Sarma and

Ms J. Das ----- Advocate for the  
Petitioner(s)

-Versus-

The Union of India and others ----- Respondent(s)

Mr A. K. Chaudhuri, Addl. C.G.S.C.

----- Advocate for the  
Respondent(s)

THE HON'BLE MR JUSTICE D.N. CHOWDHURY, VICE-CHAIRMAN

THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble : Vice-Chairman

*hw*

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.181 of 2002

Date of decision: This the 6th day of August 2002

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

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

By Advocates Mr B.K. Sharma, Mr S. Sarma and  
Ms U. Das.

- versus -

1. The Union of India, represented by the  
Secretary,  
Department of Revenus,  
Ministry of Finance,  
Government of India,  
New Delhi.
2. The Chairman,  
Central Board of Direct Taxes,  
Ministry of Finance,  
New Delhi.
3. Kanwar Rajinder Singh,  
Director to the Government of India,  
Ministry of Finance, Department of Revenue  
(Central Board of Direct Taxes),  
New Delhi.
4. D. Chakravarti,  
Chief Commissioner of Income-tax-IV,  
Kolkata,  
Aaykar Bhawan, Kolkata. . . . .Respondents

By Advocate, Mr A.K. Chaudhuri, Addl. C.G.S.C.

.....

O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

By this application the applicant assailed the order of transfer dated 4.6.2002 posting the respondent No.4, Chief Commissioner of Income Tax, Kolkata as Chief Commissioner of Income Tax, Guwahati.

*[Handwritten signature]*

2. The applicant assailed the order dated 4.6.2002 on the score that in the ssid post which was shown as a vacant post, in fact, the applicant was working as Chief Commissioner of Income Tax. The applicant who was holding the post of Chief Commissioner of Income Tax, was placed under suspension on 18.2.2002, which was assailed in O.A.No.76 of 2002. The Tribunal by interim order dated 10.4.2002 stayed the operation of the order of suspension dated 18.2.2002. In view of the interim order the suspension order became inoperative and the applicant was holding the post of Chief Commissioner of Income Tax (CCIT for short). The impugned order of posting the respondent No.4 as CCIT, Guwahati, i.e. the post which the applicant was holding is, therefore, unsustainable in law.

3. The respondents submitted their written statement denying and disputing the claim of the applicant. The respondents stated that the interim order of the Tribunal dated 10.4.2002 passed in O.A.No.76 of 2002 was stayed by the High Court in Writ Petition No.3947/2002. Since the operation of the interim order of the Tribunal was stayed by the High Court, the respondents had to post someone to run the administration. Accordingly respondent No.4 was to be allowed to function as CCIT.

4. I have heard Mr S. Sarma, learned counsel for the applicant and Mr A.K. Chaudhuri, learned Addl. C.G.S.C. at length. Strenuously opposing the claim of the respondents, Mr S. Sarma stated and contended that when the transfer order was issued on 4.6.2002 showing the post of CCIT, Guwahati as a vacant post, on that day the applicant was functioning with full vigour, so much so the order of suspension.....


suspension dated 18.2.2002 was kept in abeyance on the strength of the order of the Tribunal and which was at a later point of time stayed by the High Court vide Judgment dated 21.6.2002.

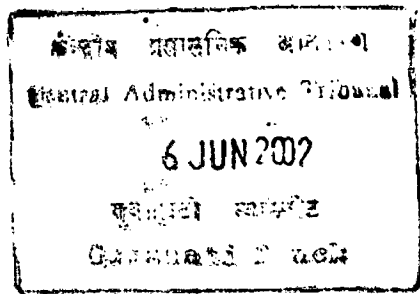
5. Mr A. K. Chaudhuri, learned Addl. C.G.S.C., opposing the application submitted that a general transfer order was issued on 4.6.2002 for administrative exigency. By virtue of the order the High Court the order of suspension became operative. Therefore, there should be someone to man the administration and accordingly the respondent No.4 was required to be posted on transfer as CCIT, Guwahati.

6. On consideration of all the aspects of the matter I do not think it will be appropriate for the Tribunal to intervene in the order of transfer of the respondent No.4 as CCIT, Guwahati. In my opinion it cannot be said that the transfer and posting of respondent No.4 is illegal requiring interference from the Tribunal.

7. The application is accordingly dismissed. The interim order dated <sup>7.6.2002</sup>~~10.4.2002~~ stands vacated.

No order as to costs.

  
( D. N. CHOWDHURY )  
VICE-CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH

(An application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the Case : O.A. No. 181 of 2002

Dr. J.K. Goayl ... Applicant

- Versus -

Union of India & Ors. ... Respondents

I N D E X

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For use in Tribunal's Office :

Date of filing :

Registration No.

REGISTRAR

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A. No. 181 of 2002

BETWEEN

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

... Applicant

AND

1. The Union of India, represented by  
the Secretary, Department of  
Revenue, Ministry of Finance,  
Government of India, North Block,  
New Delhi.
2. The Chairman, Central Board of  
Direct Taxes, Ministry of Finance,  
North Block, New Delhi.
3. Kanwar Rajinder Singh, Director to  
the Government of India, Ministry  
of Finance, Department of Revenue  
(Central Board of Direct Taxes),  
North Block, New Delhi.
4. D. Chakravarti, Chief Commissioner  
of Income-tax-IV, Kolkata.  
Aaykar Bhawan  
P.7 Chowringhee Square. ... Respondents  
Kolkata.

DETAILS OF APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THE  
APPLICATION IS MADE :

The present application is directed against the  
order No. 72 of 2002 dated 4.6.2002 passed by the  
Director to the Government of India, Ministry of  
Finance, Department of Revenue (Central Board of Direct  
Taxes) transferring/posting the Respondent No. 4 to the  
post of Chief Commissioner, Income-tax, Guwahati to  
take the place of the present Applicant who has been  
continuously kept under suspension in violation of the

Filed by  
the applicant through  
Asha Das, O  
Advocate  
6/6/02

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interim order of this Hon'ble Tribunal passed in O.A. No. 76/2002.

2. JURISDICTION OF THE TRIBUNAL :

The Applicant declares that the subject matter of the application is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION :

The Applicant further declares that the application is filed within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE :

4.1 That the Applicant had assailed the legality of the order of his suspension dated 18.2.2002 vide F.No.C-14011/5/2002-V&L in O.A. No. 76/2002. The Hon'ble Tribunal vide interim order dated 10.4.2002 stayed the operation of the order of suspension. The aforesaid order was dictated in the open Court in the presence of the learned Central Government Standing Counsel.

4.2 That when the interim order of this Hon'ble Tribunal was not complied with the Applicant filed contempt petition No. 21/2002 wherein the Respondents No.1 and 2 were impleaded in their individual capacity. This Hon'ble Tribunal issued notices in the aforesaid contempt petition on 29.5.2002.

4.3 That the Applicant craves leave of this Hon'ble Tribunal to refer to the relevant paragraphs of the O.A. No. 76/2002 as well as the contempt petition NO. 21/2002 which are pending before this Hon'ble Tribunal, at the stage of hearing of the present application.

4.4 That during the pendency of the aforesaid Original Application as well as the contempt petition, the Respondent No. 3 vide order No. 72 of 2002 dated 4.6.2002 has transferred the Respondent No. 4 from the latter's present post of Chief Commissioner, Income Tax-IV, Kolkata to the post of Chief Commissioner, Income Tax, Guwahati. In the aforesaid order, the post of Chief Commissioner, Income Tax, Guwahati has been shown as vacant.

Copy of the order No. 72 of 2002 dated 4.6.2002 is annexed as ANNEXURE-A/1.

4.5 That prior to passing of the Annexure-A/1 order, the Respondent No. 4 was holding the dual charge of Chief Commissioner, Income Tax-IV, Kolkata as well as Guwahati. Despite the interim order of this Hon'ble Tribunal dated 10.4.2002 passed in O.A. No. 76/2002 pursuant to which the order placing the Applicant under suspension was stayed, the Respondents have not acted in compliance of the interim order and the Applicant till this very date has not been allowed to discharge his duties as Chief Commissioner, Income Tax, Guwahati. It is further stated that even for the month of May 2002, the Applicant was paid the subsistence allowance as if he is still under suspension.

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4.6 That the perusal of the impugned order dated 4.6.2002 amply demonstrates that pursuant to the said order, the Respondent No. 4 is sought to take the place of the Applicant at Guwahati as Chief Commissioner, Income Tax and the Applicant is to remain continuously under suspension in violation of the interim order of the Hon'ble Tribunal.

4.7 That if the Annexure-1 order dated 4.6.2002 in so far as it concerns the Respondent No. 4 is allowed to take effect, the Applicant would suffer irreparable loss and injury inasmuch as he would be bereft of any status/office and/or responsibility. The Annexure-A/1 order in regard to the Respondent No. 4 is per se illegal and is in flagrant violation of the interim order of this Hon'ble Tribunal. The balance of convenience is in favour of the Applicant and he would suffer irreparable loss and injury if the impugned Annexure-A/1 order dated 4.6.2002 is not stayed in so far as it concerns the Respondent No. 4. It is pertinent to mention that till this very date, the Respondent No. 4 is looking after the responsibilities of the office of the Chief Commissioner, Income Tax, Guwahati from his present position of Chief Commissioner, Income Tax-IV, Kolkata.

4.8 That the Applicant files this application bonafide for securing the ends of justice.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 Because the impugned Annexure-A/1 order in regard to the Respondent No. 4 is in flagrant violation of the

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interim order of this Hon'ble Tribunal dated 10.4.2002 passed in O.A. No. 76/2002.

5.2 Because pursuant to the interim order of this Hon'ble Tribunal, the Applicant is the Chief Commissioner, Income Tax, Guwahati in the eye of law and he cannot be treated to be under suspension. The impugned order has the effect of rendering the Applicant without any post/office/ responsibility and as such, the same is liable to be quashed and set aside.

5.3 Because the impugned order is arbitrary, illegal and the same has the effect of subverting the process of justice.

6. DETAILS OF REMEDIES EXHAUSTED :

The Applicant declares that he has exhausted all the remedies available to him and there is no alternative remedy available to him in law.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT :

The Applicant further declares that he has not filed any application, writ petition or suit regarding the matter in respect of which this application has been made before any Court, Authority or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT FOR :

8.1 Quash and set aside the order No. 72/2002 dated 4.6.2002 passed by the Director to the Government

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of India, Ministry of Finance, Department of Revenue (Central Board of Direct Taxes) in so far as it concerns the Respondent No. 4.

8.2 Pass such other order/orders as may be deemed fit and proper by this Hon'ble Tribunal in the fact and circumstances of the case.

8.3 Cost of this application.

9. INTERIM ORDER PRAYED FOR :

Pending disposal of the application be further pleased to stay the operation and effect of the impugned order No. 72/2002 dated 4.6.2002 passed by the Respondent No. 3.

10. ....

The application is filed through Advocate.

11. PARTICULARS OF THE I.P.O. :

- i) I.P.O. No. : 76 574592
- ii) Date : 13/5/02
- iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

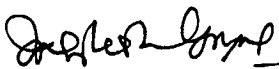
As stated in the Index.

V E R I F I C A T I O N

I, Dr. J.K. Goyal, aged about 57 years, son of Shri M.L. Goyal, resident of Uzan Bazar, Guwahati-1, do hereby solemnly affirm and verify that the statements made in paragraphs 2, 3, 4's 4.5, to 4.8

\_\_\_\_\_ are true to my knowledge ; those made in paragraphs 1, 4.1, 4.2, 4.4 \_\_\_\_\_ are true to my information derived from records and the rests are my humble submissions before the Hon'ble Tribunal.

And I sign this verification on this the 6th day of June, 2002 at Guwahati.

  
(J. K. Goyal)

F.NO.A-32011/09/2000-AD.VI 8  
 GOVERNMENT OF INDIA  
 MINISTRY OF FINANCE  
 DEPARTMENT OF REVENUE  
 (CENTRAL BOARD OF DIRECT TAXES)

**ANNEXURE-A/1**

\*\*\*\*\*

NEW DELHI, DATED THE 4<sup>TH</sup> 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 (SHRI/SMT.)	CODE	FROM	TO	REMARKS
1.	D. Chakravarti	67001	CCIT-IV, Kolkata	CCIT, Guwahati →	Vacant Post. [S]
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.

Attested

*[Signature]*  
Advocate.

*[Signature]*

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20.	S.N. Soni	67020	CCIT-VI, Mumbai	CCIT-II, Mumbai	Vacant Post
21.	G. Anantharaman	68006	CCIT-VIII, 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. Anantharaman 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

*(Signature)*

(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)/PS/Secy(Rev.)/AS(R)/Chairman, CBDT/ Members, CBDT/JS(Admn) CBDT/Director(Hqrs. Admn)/Directors, CBDT/DSs, CBDT/ OSD to Finance Minister/MOS(R)
7. US(HQ/Per)/(Pers/DT)/Ad.VIA/Ad.VII/ITCC/OT/Computer Cell/Hindi Section.

*(Signature)*

(KANWAR RAJINDER SINGH  
Director to the Government of India)

**Attested**

*(Signature)*

Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH ::: GUWAHATI.

In the matter of -

OA No. 181/2002.

Dr. J.K. Goyal

..... Applicant.

- Vs -

Union of India & Ors.

..... Respondents.

AND

In the matter of -

Written Statement for and on behalf of the Respondents No.

1, 2, 3 and 4.

I, Goulen Hangshing, Joint Commissioner of Income-tax (Vigilance),  
Guwahati, do hereby solemnly affirm and say as follows :-

01. That, I am the Joint Commissioner of Income-tax (Vigilance),  
Guwahati and as such fully acquainted with the facts and circumstances of  
the case. I have gone through a copy of the application and have understood  
the contents thereof. Save and accept whatever is specifically admitted in  
the written statement the other contention and statements may be deemed to  
have been denied. I am competent and authorised to file this Written  
Statement on behalf of the respondents No. 1,2,3 and 4.

Contd.. P/2..

*Union of India - Respondents  
Through -  
Ajay Kumar Choudhary  
18.7.02*

2. That with regard to the statement made in paragraph 1 of the application, the deponent begs to state that the above case was filed by the applicant against the posting of Shri D. Chakravarti, Chief Commissioner of Income-tax-IV, Kolkata as Chief Commissioner of Income-tax, Guwahati. The applicant's grievance is that he has been kept under suspension in violation of the interim order dated 10.04.2002 passed by the Hon'ble Tribunal in OA No. 76/2002. The deponent begs to state that the Department has filed Writ Petition No. 3947/2002 against the interim order dated 10.04.2002 passed by the Hon'ble Tribunal. The Hon'ble High Court by its order dated 21.06.2002 admitted the Writ Petition and stayed the order dated 10.04.2002 of the Hon'ble Tribunal. The deponent begs to state that since the applicant who was placed under suspension w.e.f. 18.02.2002 continues to be under suspension in view of the order passed by the Hon'ble High Court, the above OA is liable to be dismissed as infructuous.

A copy of the Hon'ble Gauhati High Court's order dated 21.06.2002 is annexed hereto and marked as ANNEXURE - I.

3. That the respondents have no comments to the statements made in paragraphs 2 and 3 of the application. The same being matter of records.

4. That with regard to the Statement made in paragraphs 4.1 to 4.8 of the application, the deponent beg to state that in view of the statements made in paragraph 2 of the written statement the applicant has got no locus

standi to file the present application and the same is not maintainable. The C.P. No. 21/2002 & M.P. 79/2002 in C.P. 21/2002 have already been dismissed by the Hon'ble Tribunal when the same came up for hearing on 28.06.2002. As the applicant continues to be under suspension w.e.f. February, 2002, the Government is fully empowered to post any other officer to hold the post of the Chief Commissioner of Income-tax, Guwahati which became vacant with the suspension of the applicant. Hence the applicant has no say in posting of any officer including the Respondent No. 4 to man the post of the Chief Commissioner of Income-tax, Guwahati.

5. That with regard to the statement made in paragraphs 5.1 to 5.3 of the application, the deponent begs to state that the grounds are no longer valid in view of the stay granted by the Hon'ble High Court. Besides the C.P. 21/2002 has already been dismissed by the Hon'ble Tribunal on 28.06.2002.

6. That the Respondents have no comment to the statement made in paragraph 6 and 7 of the application. The same being matter of record.

7. That with regard to the statement made in paragraphs 8.1 and 8.2 of the application, the deponent begs to state that as the applicant continues to be under suspension, the Government has full powers to post and fill up the post by Chief Commissioner of Income-tax, Guwahati in the public interest.

8. That the applicant is not entitled to any relief sought for in the application and the same is liable to be dismissed with costs.

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9. That the deponent begs to submit that the interim order of Hon'ble Tribunal dated 07.06.2002 has affected the Chain of transfer which has seriously prejudiced the Department.

10. That the deponent begs to submit that the interim order passed on 07.06.2002 by the Hon'ble Tribunal may please be vacated in view of the facts stated in the foregoing paragraphs.

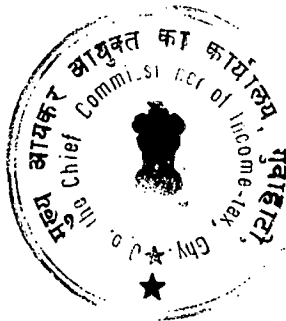
Verification .....

VERIFICATION

I, GOULEN HANGSHING, working as Joint Commissioner of Income-tax (Vigilance), Guwahati do hereby solemnly affirm and state as follows :-

1. That, I am competent to file this verification on behalf of the respondents as authorised and I swear the same. I am also fully acquainted with the facts and circumstances of the case.
  
2. That, the statement made in this verification and in paragraphs 1, 3 + 6 of the accompanying written statement of defence are true to my knowledge, those made in paragraphs 2, 4, 5 + 7 ~~are~~ being matters of records of the case are true to my information derived there from which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal.

I sign this verification on this seventeenth day of July, 2002 at Guwahati.

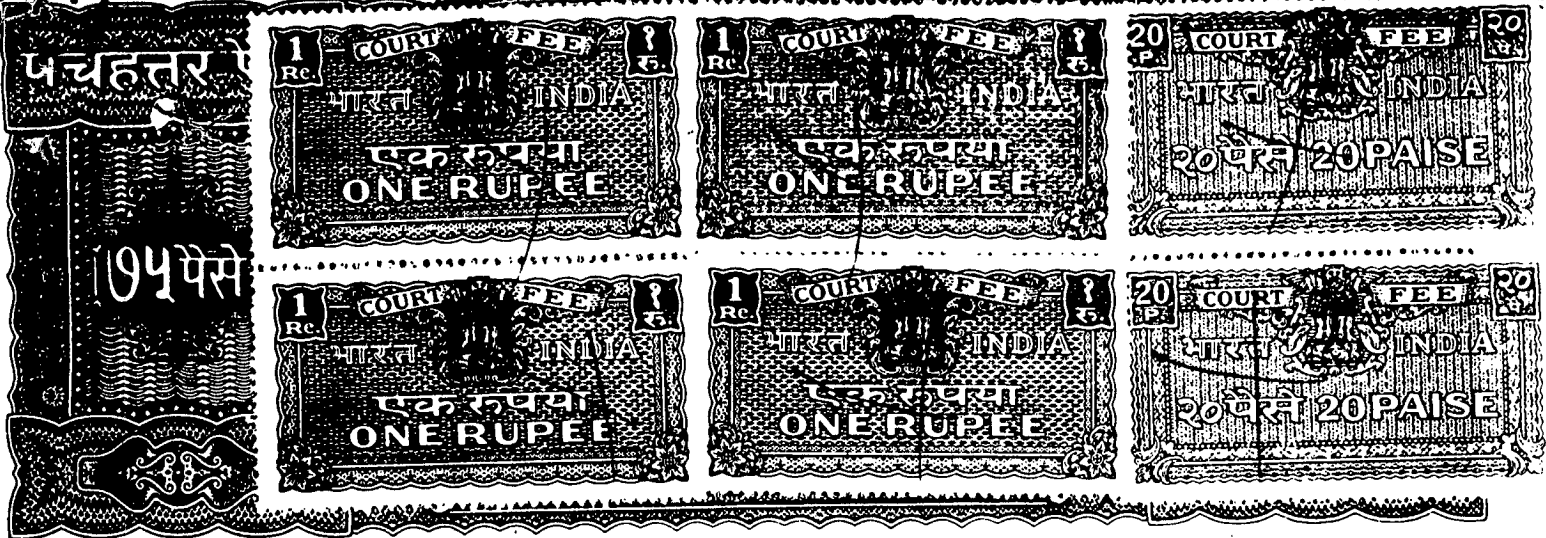


*[Handwritten Signature]*

DEPONENT.

Joint Commissioner of Income-tax, Vigilance.  
O/o. the Chief Commissioner of Income-tax,  
Guwahati.

ASSAM



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.
21.6.2002	24.6.2002	25.6.2002	25.6.2002	25.6.2002

## 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 ,Cent-ral 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/-



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

-2-

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

Date:-21.6.2002. ORDER

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 ~~सुप्रीम~~ 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 11558  
Photostate by, Type by 25/6  
Read by 25/6  
Compared by 25/6

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

Attested  
JK Choudhary

25/6/02