

0/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 97/2004

R.A/C.P No.....

E.P/M.A No.....

1. Orders Sheet.....OA.....Pg.....1.....to.....X.....
2. Judgment/Order dtd 26.6.04: 2004 Pg.....1.....to.....X.....*Separate order 97*
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A.....97/2004.....Pg.....1.....to.....25.....
5. E.P/M.P.....Pg.....to.....
6. R.A/C.P.....Pg.....to.....
7. W.S.....Pg.....to.....
8. Rejoinder.....Pg.....to.....
9. Reply.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

Shahil
09.2004

FORM NO. 4
(SEE RULE 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

Cra.App/ Misc.Petn/Cont.Petn/ Rev.Appl.

97/2004

In O.A.

Name of the Applicant(S) M. K. Brahma

Name of the Respondent(S) UOI 1 018

Advocate for the Applicant Mr. J. L. Sarkar, Mr. A. Chakraborty
Mrs. K. Datta

Counsel for the Railway/ C.G.S.C. CGSC

OFFICE NOTE | DATE | ORDER OF THE TRIBUNAL

This application is in form
is filed/C. F. for U.S. 10/
deposited via P. D.
No. 11G 387882

Dated 3/4/04

Done
Dy. Registrar

No Steps. 27/4/04

27.4.04
Copy of the order
has been sent to the
Officer for issuing
the same to the
Advocates for the
parties.

, 26.4.2004 Heard Mr. J. L. Sarkar, learned
counsel for the applicant and also
Mr. A. Deb Roy, learned Sr. C.G.S.C. for
the respondents.

In view of the order dated
23.4.2004 passed by the Dy. Commi-
ssioner, Central Excise, Guwahati,
issued in compliance to Estt. Order
dated 22.4.2004 of the Additional
Commissioner (P&V), Office of the
Commissioner of Central Excise,
Shillong, keeping the transfer order
of the applicant dated 13.4.2004 in
abeyance and retaining him in his
original place of posting, the O.A.
stands disposed of as withdrawn. No
costs.

ICD Borleldam
Member (A)

bb

*Received
C.G.S.C.
27/4/04*

In The Central Administrative Tribunal

Guwahati Bench :: Guwahati.
केन्द्रीय प्रशासनिक न्याय बैठक
Central Administrative Tribunal

22 APR 2004

O.A. No. 97 /2004

गुवाहाटी बैठक द्वारा
Guwahati Bench

Sri M. K. Brahma

----- VS -----

Union of India & Ors

3
A. Datta
Advocate
22 APR 04

Filed by:

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

13.1.2004 The Applicant was transferred by Order No.11/2004 dated 13.01.2004 following transfer policy which was decided on December, 2003. He joined the post w.e.f. 3.2.2004.

17.2.2004 Notification issued by the Central Board of Excise and empowered some officers to exercise powers of recovery under section 11 of the Central Excise Act. The Applicant is not an empowered officer in view of the said Notification.

05.4.2004 Letter dated 5.4.2004 of Additional Commissioner (Tech), Central Excise, Shillong calling for explanation of the concerned officers in the above matter of recovery, and also indicating the fact of forming adverse opinion and contemplated action.

13.04.2004 The impugned transfer order has been issued transferring the applicant from the present post to Dibrugarh. This order was not issued

by the respondent No.2 who is the competent authority. This order is the outcome of the letter dated 5.4.2004 (Annexure-II) and hence the transfer of the applicant is penal in nature.

#####

In The Central Administrative Tribunal

Guwahati Bench :: Guwahati.

D.A. No. 97/2004

Shri M. K. Brahma

____ Applicant

----- Versus -----

Union of India & Ors

____ Respondents

I N D E X

Sl.No.	Annexure	Particulars	Page No.
1.		Application	1-14
2.		Verification	15
3.	I	Order dated 13.01.2004	16-17
4.	II	Letters dated 05.4.2004	18
5.	III	Order dated 8.8.2003	19-20
6.	IV	Notification DT.17.2.2004	21
7.	V	Leave sanction Order and leave application	22-23
8.	VI	Order dated 13.4.2004	24-25

Filed by:


Anupam Chakraborty
(Anupam Chakraborty)

ADVOCATE

Shri M. K. Brahma
Advocate

In The Central Administrative Tribunal

Guwahati Bench :: Guwahati.

O.A. No. 12884

BETWEEN

Sri Monoj Kr Brahma,
working as Superintendent of
Central Excise, Guwahati Range-I,
residing at Geetanjali Apartment,
Rukmini Nagar, Dispur Guwahati-6.

Applicant

- Vs. -

1. Union of India represented by
the Secretary, Ministry of Finance,
Department of Revenue, Tax Research
Unit, New Delhi.

2. The Chief Commissioner, Customs
& Central Excise, Shillong Zone,
'CRESCENS' Building, Shillong-1.

3. The Commissioner,
Central Excise, Morello Compound,
M. G. Road, Shillong-1.

4. Additional Commissioner (P & V)
Central Excise, Morello Compound,
M. G. Road, Shillong-1.

5. The Deputy Commissioner,
Office of the Assistant
Commissioner of Central Excise,
G.S. Road, Bhangagarh, Guwahati-5.

Respondents

Filed by the applicant
through A. Chakraborty
21/4/2003
Sri Monoj Kr. Brahma

Mooney Kor
Brahman

Details of the Application :

1. Particulars of the order against which the application is made :

The application is made challenging the legality of the impugned Establishment Order No.60/2004 dated 13.04.2004 transferring the applicant under the guise of administrative ground by abusing power and also exercising such power colourably, and for alteration/modification of the said impugned order by deleting name of the applicant therefrom.

2. Jurisdiction:

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

3. Limitation:

The applicant declares that the application is within the period of limitation under section 21 of the Administrative Tribunal Act, 1985.

4. Facts of the case:

4.1 That the Applicant is citizens of India and as such is entitled to the rights and Privileges guaranteed by the Constitution of India. He is a member of Schedule Tribe (Plain) community.

4.2 That the Applicant initially joined service as Inspector of Central Excise w.e.f. 12.07.1982 in the respondents department. He was promoted as Superintendent, Central Excise (Group-B Officer) w.e.f. 8.12.1995 and was

posted at Tinsukia. In the year 1998 he was transferred and posted at Guwahati. He joined at Guwahati Office w.e.f 5.8.1998. He was posted as Superintendent, Central Excise, Guwahati Range-I, Guwahati Central Excise Division w.e.f. 18.4.2001
6.6.2003. The applicant was further transferred as Superintendent, Head Quarters Law Unit, Central Excise, Guwahati by the Establishment Order No.11/2004 dated 13.01.2004 which he carried out and joined the post w.e.f. 3.2.2004.

Copy of the Order dated 13.1.2004
is enclosed as Annexure-I.

4.3 That the applicant begs to state that since his appointment he has been serving the office with utmost sincerity and with the satisfaction of all concerned authorities. He has been discharging his duties honestly and without any blemish. It is also stated that the applicant has never been communicated anything adverse in his whole service since appointment. It is further stated that he has discharged all his duties with due care, sincerity and without any negligence during his tenure in Guwahati Range-I, Central Excise, Guwahati.

4.4 That the applicant begs to state that a Office Letter bearing No.IV-16/26/TECH/03/9836 of the Additional Commissioner (Tech), Central Excise, Shillong dated 5.4.2004 has been issued calling for explanation of the Field Officers like the applicant on the matters of recovery of dues from an assessee company. It is stated that the matter of recovery of dues comes within the jurisdiction of

Guwahati Range-I, Guwahati Central Excise Division, where he
served as Superintendent w.e.f. ~~06.06.2003~~ to 30.01.2004. The
said letter inter-alia contains as under:

"Direction contained in the above mentioned
letters to recover the huge arrears from the DSL
Group has not been enforced till date.
Commissioner has noted adversely and directed to
call for explanation of the Officers concerned
immediately.

Fixing of responsibility is contemplated.

You are therefore directed to explain the action
taken by the Divisional officer and the Field
officers towards recovery of such huge arrears in
the light of the above directions within 7 days
for Commissioner's perusal."

It is pertinent to mention here that this decision
is in direct violation of the decision of the Central Board
of Excise to keep the recovery pending by Order
No.:F.No.356/43/2003-TRU dated 8.8.2003.

Copy of the Office Letter dated
5.4.2004 is enclosed as Annexure-II
4.5. The applicant begs to narrate the backdrop of the
issue which lead to issuance of the said letter dated
5.4.2004 as under :

That the Government of India issued Notification
No.32/99-CE dated 8.7.1999 so as to extend benefit of
exemption by way of refund for Cigarettes and Gutkha (pan
masala containing tobacco) w.e.f. 8.7.1999 to the units in

the North East region. The assessee M/s Dharampal Satyapal Ltd established its unit of pan masala, zarda and gutkha factory at Guwahati and Agartala (both in the North East Region). The said assessee company enjoyed the benefit of said exemption till 28.2.2001 and got refund of about Rs.2.16 crore. Later, by Notification No. 6/2001 CE dated 1.3.2001 the benefit of the aforesaid notification No.32/99-CE in respect of tobacco product was withdrawn. The said Notification was challenged by the assessee company before the Hon'ble Gauhati High Court and the Hon'ble High Court in the Writ Appeal No.219-222/2001 quashed the aforesaid Notification No.6/2001 CE by Judgement dated 3.12.2002. Thereafter Section 154 of the Finance Act 2003, on 13.5.2003 retrospectively amended the North East Central Excise exemptions Notification No.32/99-CE withdrawing the benefit of exemption of the said notification w.e.f. 8.7.1999 for tobacco product. The said assessee company was then issued an order of Recovery by Office C.No.V(15)57/SPL/ACG/03/7084 of the respondent No.5 dated 6.6.2003 against which the said assessee company filed appeal before the Commissioner (Appeals) Guwahati along with stay petition, but no stay was granted to them. Meanwhile the respondent Department filed a Special Leave Petition before the Hon'ble Supreme Court assailing the Judgement of the Hon'ble Gauhati High Court in Writ appeal No.219-222 dated 3.12.2002. The Hon'ble Supreme Court stayed the operation of the Judgement of the Hon'ble High Court by an Order dated 12.01.2004. It is pertinent to mention here that the Central Board of Excise by Order No.F.No.356/43/2003-TRU dated 8.8.2003 directed the respondents to keep the recovery

pending till further orders.

Copy of the Order of the Central Board dated 8.8.2003 is enclosed as Annexure-III.

4.6 That it is stated that the applicant is not an empowered officer to exercise the power of recovery under Section 11 of the Central Excise Act,1944. The applicant begs to reproduce Section 11 of the Central Excise Act,1944 here-in-below for ready reference of the Hon'ble Tribunal which is very much relevant to judge the factual matrix:

11. Recovery of sums due to Government. In respect of duty and any other sums of any kind payable to the Central Government under any of the provisions of this Act or of the rules made thereunder [including the amount required to be paid to the credit of the Central Government under section 11D], the officer empowered by the [Central board of Excise and Customs constituted under the Central Boards of Revenue Act,1963 954 of 1963) to levy such duty or require the payment of such sums may deduct the amount so payable from any money owing to the person from whom such sums may be recoverable or due which may be in his hands or under his disposal or control, or may recover the amount by attachment and sale of excisable goods belonging to such person; and if the amount payable is not so recovered, he may prepare a certificate signed by him specifying the amount due from the person liable to pay the same and

send it to the Collector of the district in which such person resides or conducts his business and the said collector, on receipt of such certificate, shall proceed to recover from the said person the amount specified therein as if it were an arrear of land revenue."

It is submitted that the said Section 11 specifically mentions that the Officers who are empowered by the Central Board of Excise can exercise the power under the said section. The applicant begs to state that he came to know that the Central Board did not empower any officer of Central Excise to exercise the power under section 11 but only by Notification No.4/2004-C.E.(N.T.), dated 17.2.2004 empowered every Central Excise Officer, not below the rank of an Assistant Commissioner of Central excise, to exercise the powers conferred by the said Section 11. It is reiterated that the applicant is not an officer empowered by the said notification to exercise the power of recovery.

The applicant further begs to state that he could collect only the extract of the said notification dated 17.2.2004 and the Hon'ble Tribunal may be pleased to call upon the respondents to produce the complete copy of the said notification before this Hon'ble Tribunal.

Copy of the extract of the said Notification dated 17.2.2004 is enclosed as Annexure-IV.

4.7 That the applicant begs to state that in view of

the Central Board's Order dated 8.8.2003 as explained above, and in view of the Notification dated 17.2.2004 under which the applicant is not even competent officer to make recovery the respondents ought not to have issued the aforesaid Letter dated 5.4.2004 (Annexure-II) indicating actions against the Field officers like the applicant.

4.8 That the applicant begs to state that he prayed for Earned Leave which has been duly sanction by the Respondents upto 16.4.2004 by Office Order dated 7.4.2004. It is stated that due to some urgency the applicant prayed for extension of Leave upto 23.04.2004 by application dated 16.4.2004 sent through Fax message.

Copy of the order dated 7.4.2004
with leave application dated
16.4.2004 are enclosed as
Annexure-V.

4.9 That the applicant has come to know that the respondent No.3 has been looking for actions against the officers in terms of letter dated 5.4.2004 (Annexure-II). The applicant could learn from his colleagues in the office that action against some Officers and Inspectors allegedly concerned with the recovery as explained above has been taken by way of transfer from the present place of posting. He could collect a copy of the Establishment Order No.60/2004 dated 13.04.2004 by which he has been transferred from Hqrs. Law Unit, Central Excise, Guwahati to Dibrugarh Central Excise Commissionerate. It is stated that this order has not been issued by the respondent No.2 who is the

Competent Authority in the matters of transfer & posting of the officers like applicant.

Copy of the Order dated 13.04.2004
is enclosed as Annexure-VI.

4.10 That the applicant begs to state that the respondents have mechanically passed the impugned transfer order of the applicant. The respondent authorities decided the matter of transfer as per policy of transfer in December, 2003 and posted him by Order No.11/2004 dated 13.01.2004 (Annexure-I) at Hqrs Law Unit, Central Excise, Guwahati. It is stated that the present home town of the applicant is Guwahati. His transfer only in the month of January, 2004 at Guwahati Office was done following the practice & procedure of transferring and posting of Schedule Tribe and Schedule Cast employees at the nearer to their home town. He joined the Law Unit of Guwahati Office on 3.2.2004. It is respectfully submitted that no exigencies in service has arisen within such a short spell for which he has to be transferred again while the matter of transfer as per policy has already been decided on December, 2003 and acted upon by issuing order dated 13.01.2004 (Annexure-I). Such attitude of the respondents in the matter of transfer can not serve public interest nor can it meet up exigencies in office.

4.11 That the applicant begs to submit that the above transfer order is the result of the order dated 5.4.2004 (Annexure-II) though it has been said to be issued on administrative ground. It is submitted that no

For. *Parashma*
Mone

administrative exigencies lies behind the said transfer order nor it has been made in public interest. The said transfer order has been issued for collateral purposes and with oblique motives and hence the impugned transfer order is vitiated by abuse of powers. The said transfer order is a manoeuvre to cover up the responsibilities of the Officers in the matter of aforesaid recovery who are empowered under section 11 of the Central Excise Act in view of the Notification dated 17.2.2004 (Annexure-IV). It is further submitted that the aforesaid transfer is not in administrative exigencies neither in public interest but is a case of victimisation of the applicant. The respondents have adopted a short cut method to cover up the responsibilities of the empowered officers in the entire recovery matter and imposed the punishment upon the applicant by way of transferring him. The office order dated 5.4.2004 (Annexure-II) is a clear cut evidence of the above fact. The malice in fact as well as in law is patent in the above facts and circumstances. The transfer of the applicant, under the above circumstances, is nothing but mala fide exercise of the power to demoralise the applicant who has been efficiently discharging his duties without any blemish. The said order of transfer is extraneous to office exigency and is penal in nature.

4.12 That the respondent department has adopted policy for transfer of Superintendent/Inspectors under which last transfers have been acted upon in December, 2003. It is stated that the department take resort to transfers which are called transfers on administrative ground which includes

transfers of penal nature. The administrative grounds are nowhere explained giving arbitrary power of whimsical transfer. In the present case even though transfers were formally decided on in December, 2003, the present transfer order dated 13.04.2004 has been issued purportedly on administrative ground which is vague and in the present case is penal in nature. No public interest is involved in the transfer. The Hon'ble Tribunal may be pleased to call for the records relating to the transfers and aforesaid recovery.

4.13 That the applicant begs to state that he is only male member to look after his family. His daughter studies in the second year of Degree Course in Commerce at Guwahati and his son is also studying in Class-X (SEBA Course) at Guwahati and it is their mid session. The applicant has dependent father who is 78 years old. His father is suffering from old age diseases. The transfer of the applicant in such a manner and specially under such circumstances shall cause irreparable loss and injury to him and his family members.

5. **Ground for reliefs with legal provisions.**

5.1 For that the impugned transfer order is the consequence of the Letter dated 5.4.2004 (Annexure-II) which is the result of arbitrariness, whims and capricious and offends Article 14 of the Constitution of India.

5.2 For that the respondents have acted with a closed mind and formed adverse opinion and contemplated action

Bordorok
Koti
Monogram

against the field officers like applicant which resulted in transferring the applicant.

5.3 For that the non-application of mind in passing the impugned transfer order is patent.

5.4 For that the impugned transfer order is extraneous to office exigencies and is penal in nature.

5.5 For that the impugned transfer order has been issued for collateral purposes and with oblique motives and hence the impugned transfer order is vitiated by abuse of power.

5.6 For that the impugned transfer order is a manoeuvre to cover up the responsibilities of the empowered officers in the matter of recovery as explained above and is a case of victimisation of the applicant.

5.7 For the impugned transfer order is vitiated by mala fide exercise of power of the respondents. Malice in law as well as in fact is explicit.

5.8 For that the impugned transfer order has not been issued by the respondent No.2 who is the Competent Authority in the matters of transfer & posting of the officers like applicant.

5.9 For that in view of the matter the applicant is entitled to the reliefs sought for.

6. **Details of the remedies exhausted**

The applicant declares that there is no other

efficacious remedies under any Rule and this Hon'ble Tribunal is the only forum to adjudicate the subject matter.

7. Matters not previously file or pending with any other court

The applicant declares that he has not filed any case on the subject matter before any court, forum or any other institution.

8. Reliefs sought for

Under the above facts and circumstances the applicant prays for the following reliefs :

8.1 The impugned transfer order No.60/2004 dated 13.4.2004 be modified/ altered by deleting the name of the applicant therefrom.

8.2 The applicant be allowed to continue in the present post.

8.3 No action in terms of letter dated 5/4/2004 (Annexure-II) against alleged concerned officer (applicant is one) shall be taken.

8.4 Any other relief or reliefs as the Hon'ble Tribunal deem fit and proper.

The above reliefs are prayed for on the ground stated in para 5 above.

9. Interim Relief

During the pendency of this application the applicant prays for the following interim reliefs:

19
K. S. Brahman
M. M. (Monogram)
:: 14 ::

9.1 The transfer of the applicant be stayed and he may be allowed to continue in the present post.

9.2 Any other relief or reliefs as the Hon'ble Tribunal deem fit and proper.

The above reliefs are prayed for on the ground stated in para 5 above.

10. This application is filed through the Advocate.

11. **Particulars of Postal Order:**

i) IPO No : *TJG 387882*
ii) Date of Issue : *3-02-2004*
iii) Issued from : *GPO*
iv) Payable at : *Guwahati*

12. **List of Enclosures**

As per Index.

Verification

Verification

I, Monoj Kr. Brahma, son of Sri Narendra Nath Brahma, aged about 49 years, a resident of Dispur, Guwahati-6, Dist-Kamrup, do hereby verify that the statements made in the paragraphs 1,4,6 to 12 are true to my knowledge and statements in para 2,3 and 5 are true to my legal advice and that I have not suppressed any material fact.

And I, sign this verification on this 20th day of April, 2004.

Monoj Kr. Brahma

SIGNATURE

GOVERNMENT OF INDIA
OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE
MORELLO COMPOUND, SHILLONG - 793001

ESTABLISHMENT ORDER No. 11/2004
DATED SHILLONG THE 13th JANUARY 2004

Subject - Establishment transfer, posting and adjustment of officers in the grade of
Superintendent - Order regarding

The following transfers, postings and adjustment in the grade of Superintendent of Shillong
Commissionerate are hereby ordered with immediate effect and until further orders.

SL. NO.	NAME OF THE OFFICER	FROM	TO
1.	Shri M.K. Brahma	Guwahati Range, Guwahati Central Excise Division	Hqrs. Law Unit, Central Excise, Guwahati
2.	Shri A. Chakraborty	Guwahati VII Range, Guwahati Central Excise Division	Comr. (Appeals) Central Excise, Guwahati
3.	Shri N.M. Borthya	Hqrs. A/E, Guwahati Central Excise Division	Hqrs. Audit Unit, Central Excise, Guwahati
4.	Shri B.C. Nath	Divisional Office, Dhubri Central Excise Division	Hqrs. Audit Unit, Central Excise, Guwahati
5.	Shri S.K. Kundu	Goalpara Range, Dhubri Central Excise Division	Hqrs. Audit Unit, Central Excise, Guwahati
6.	Shri R.M. Debondin Singh	Imphal Customs Division	Guwahati V Range, Guwahati Central Excise Division
7.	Shri P.K. Das	Guwahati Customs Division	Hqrs. Law Unit, Central Excise, Guwahati
8.	Shri B.C. Patra	Hqrs. Audit Unit, Central Excise, Guwahati	Techno Section, Guwahati Central Excise Division
9.	Shri A. Chatterjee	A/E Unit, Guwahati Central Excise Division	Nagaon Divisional Office, Nagaon Central Excise Division
10.	Shri N. Phukan	Commr. (Appeals), Central Excise, Guwahati	Techno Section, Guwahati Divisional Office, Guwahati Central Excise Division
11.	Shri P. Banerjee	Shillong Divisional Central Excise, Shillong	Commr. (Appeals), Central Excise, Guwahati
12.	Shri R.K. Sarkar	Commr. (Appeals), Central Excise, Guwahati	Guwahati Range, Guwahati Central Excise Division
13.	Shri Lakawnianda	Jagjorai Range, Guwahati Central Excise Division	Assam Range, Silchar Central Excise Division
14.	Shri J.C.K. March	Tura C.P.F. Dhubri Customs Division	Goalpara Range, Dhubri Central Excise Division
15.	Shri L. Kato	Dimapur Customs Division	Dimapur Range, Nagaon Central Excise Division
16.	Shri Nazruddin	Mankachar L.C.S. Dhubri Customs Division	Divisional Office, Dhubri Central Excise Division
17.	Shri J.K. Sathia	Shillong Hqrs. Office, Central Excise, Shillong	Guwahati Range VII, Guwahati Central Excise Division
18.	Shri P.P. Kujur	Guwahati Customs Division	Hqrs. Audit Unit, Central Excise, Shillong
19.	Shri I.H. Synrem	Shillong Customs Division	Hqrs. Audit Unit, Central Excise, Shillong
20.	Shri J.C. Das(I)	Karimganj Customs Division	Dharmaparg Range, Silchar Central Excise Division
21.	Shri S.K. Roy	Dharmaparg Range, Silchar Central Excise Division	Agartala Range, Silchar Central Excise Division
22.	Shri J.L. Bhowmick	Agartala Range, Silchar Central Excise Division	CIU-VIG Br. Hqrs. Office, Central Excise, Shillong
23.	Shri J. Dey	CIU-VIG Br. Hqrs. Office, Central Excise, Shillong	Karimganj Range, Silchar Central Excise Division
24.	Shri B. Bhattacharjee	Nagaon Range, Nagaon	A/E Unit, Silchar Central Excise Division
25.	Shri S. Dhar	A/E Unit, Silchar Central Excise Division	Guwahati Range, Silchar Central Excise Division

Altered
by D.P.

EDC 14/2003 PREVENTIVE, EXCISE, SHILLONG 03040721

Shri P. Bhattacharjee	Baderpur Range, Silchar Central Excise Division	Divisional Office, Silchar Central Division
Shri B. Baker Bhattacharjee	Adjudication Branch Hqrs. Office Central Excise, Shillong	Baderpur Range, Silchar Central Division
Shri D. Mazumdar	Agartala Customs Division	PRO, Hqrs. Office, Central Excise
Shri T.M. Hartlong	Hqrs. Audit Unit, Central Excise, Guwahati	Guwahati Range I, Guwahati Central Excise Division
Shri I. Hallim	Hqrs. Audit Unit, Central Excise, Guwahati	Guwahati V Range, Guwahati Central Excise Division
Shri K.C. Deka	Hqrs. Audit Unit, Central Excise Guwahati	Comms./Appeals), Central Excise Guwahati
Shri A.K. Choudhury	Guwahati Range IV, Guwahati Central Excise Division	Tech I Sec, Guwahati Divisional Off Guwahati Central Excise Division
Shri Bikash Chakraborty	Hqrs. Audit Unit, Central Excise Guwahati	Divisional A/E, Guwahati Central Division
Shri A.K. Chakraborty	Guwahati Range I, Guwahati Central Excise Division	Hqrs. Anti-Evasion, Guwahati Central Excise Division
Shri Kaliash Burman	Tech II Sec, Guwahati Divisional Office, Guwahati Central Excise Division	Guwahati Range III, Guwahati Central Excise Division

27/03/2004
COMMISSIONER
CENTRAL
EXCISE

Dated :-

114 Jr. 2004

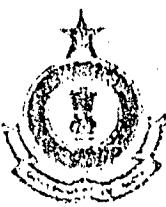
No. II (3) 18/ETH/II/2003 268-77
Copy forwarded for information and necessary action to :-

1. The Chief Commissioner, Customs & Central Excise, Shillong Zone, 'CRESCENS' Building, M.G. Road, Shillong -1
2. The Commissioner, Customs (Preventive), NER, Shillong
3. The Commissioner, Central Excise, Dibrugarh.
4. The Commissioner (Appeals), Central Excise, Guwahati.
5. The Additional Commissioner (P&V), Central Excise, Shillong/Dibrugarh.
6. The Additional Commissioner (Tech), Central Excise, Hqrs. Office Shillong/Dibrugarh.
7. The Additional Commissioner (P&I), Customs (Preventive), NER, Shillong
8. The Additional Commissioner, Customs Division, Guwahati.
9. The Joint Commissioner (P&V), Central Excise, Dibrugarh.
10. The Joint Commissioner, Customs (Preventive), NER, Shillong
11. The Deputy/Assistant Commissioner, Central Excise, Shillong/Dibrugarh Commissionerate. Copy(s) meant for the concerned officer(s) is/are enclosed.
12. The CAO, Central Excise/Customs, Shillong/Dibrugarh Commissionerate.
13. The PAO, Customs & Central Excise, Shillong
14. Accounts I & II/ Confidential Branch/CIU-Vigilance Branch, Central Excise Hqrs. Shillong, Superintendent, for compliance.
15. Shri/Smti. _____, General Secretary Group 'B' Superintendents' Association, Customs & Central Excise, Shillong/Dibrugarh.
16. Guard File.

Filed for
signature

87

27/03/2004
COMMISSIONER
CENTRAL
EXCISE



COMMISSIONER OF CENTRAL EXCISE
MORELLO COMPOUND,
M.G. ROAD,
Shillong

Tel. 0364-224751/2223030, Fax. 0364-2223428/2226215/222330, E-Mail: cecxshill@exchse.nic.in

C.No. IV-16/16/TECH/03/
To. 4326

Dated: - 5 APR 2004

The Deputy Commissioner (by name)
Central Excise,
Cawabhati

Subject:- Recovery of arrears from DSL Group - regarding.

Reference: (i) Letter No. IV-16/13/TECH/2003/40351-52 dated 21.10.2003 issued by the Commissioner with the direction to recover the arrear on or before 07.11.03, otherwise to initiate coercive measures.
(ii) Letter even No. 42738-41 dated 6.11.03 disposing off representations submitted by DSL Group to the Hqrs.
(iii) Letter even No. 48 dated 1-01-2004 issued by the Commissioner, directing to enforce Section 11 of the Central Excise Act, 1944 and the Section 142 of the Customs Act, 1962 to recover the arrear.
(iv) Letter even No. 5398-400 dated 26.02.2004 issued by the Additional Commissioner (Tech) directing to enforce coercive measures to recover the arrears.
(v) Letter even No. 7337-38 dated 16.03.2004 of the Additional Commissioner(Tech) to enforce recovery immediately as per direction communicated in earlier letters.

Direction contained in the above mentioned letters to recover the huge arrears from the DSL Group has not been enforced till date. Commissioner has noted adversely and directed to call for explanation of the officers concerned immediately.

Fixing of responsibility is contemplated.

You are therefore, directed to explain the action taken by the Divisional officer and the Field officers towards recovery of such huge arrears in the light of the above directions within 7 days for Commissioner's perusal.

(T. HAOKIP) 5/4/04
Additional Commissioner (Tech)

P. K. Tamang, Superintendent of C.E., 6 weeks +
Kamrup. It is directed to submit one regularization to Hqrs. within three
weeks of receipt of this communication.

P. K. Tamang

DEPUTY COMMISSIONER

F. No. 350/43/2003-TRU
Government of India
Ministry of Finance
Department of revenue
Tax Research unit

Date: 8.8.2013

1. Chief Commissioner of Customs & Central Excise, Shillong
2. Commissioner of Central Excise, Shillong/Dibrugarh

Subject: - Retrorespective amendment to the North East excise duty exemption, regarding

Section 154 of the Finance Act 2003, has retroactively amended the North East central excise exemptions notification no. 32/99-CE and 33/99-CE both dated 08/07/99, so as to withdraw the benefit of exemption for cigarettes and pan masala containing tobacco 'gutkha' w.e.f. 08/07/99. Such amendment also provides for recovery of amounts, which would not have been refunded but for such amendment, within a period of thirty days from the date on which the Finance Bill 2003 got assent of the President. It also provides for charging of interest @ 15% in case of delay in such payments.

It has been brought to the notice of the Board that, in cases where the amount recoverable has not been paid by the manufacturers within the prescribed period, show cause notices have been issued by the Central Excise Commissionerates at Shillong and Dibrugarh. It has also been brought to the notice of the Board that in some cases, orders for recovery of the central excise amounts refunded to the affected units, have also been issued.

In this regard, Finance Minister at the consideration stage of the Finance Bill had made the following statement, in the Parliament:

"No industry other than tobacco in the North East region for Assam is affected by it. What you are now asking about tobacco is to make an exception for chewing tobacco and gutkha, I will consider it fully, I will try and find a suitable legal answer for this purpose."

The matter has been examined by the Board and in view of the assurance given by the Honorable P.M. it has been decided to keep all such show cause notices, issued in respect of

ATTENTION:

D.C. GUWAHATI -

FOR INFORMATION AND NECESSARY ACTION
TO INVESTIGATE AND FOLLOW UP

Deere & Co.
Moline, Ill.

chewing tobacco and gutkha, pending till a final decision is taken in this regard. In case adjudication orders for recovery in this regard have been issued, the actual recovery of such amounts may also be kept pending till further orders. Accordingly, you are directed to keep all such show cause notices pending, till further orders on the matter. It is however, clarified that show cause notices as necessary may continue to be issued, so that statutory bar on limitation is not attracted.

5. Receipt of this letter may please be acknowledged.

(Gautam Ray)
Joint Secretary (TRU)

8/2/03

Revised
D. Ray

Notifications

Central Excise

Recovery of sums due to Government — Assistant Commissioner and above empowered under Section 11 of Central Excise Act, 1944

[Add on page 4.27 of Central Excise Law Manual 2004]

In exercise of the powers conferred by section 11 of the Central Excise Act, 1944 (1 of 1944), the Central Board of Excise and Customs, referred to in that section, empowers every Central Excise Officer, not below the rank of an Assistant Commissioner of Central Excise, to require the payment of duty and any other sums of any kind payable to the Central Government under any of the provisions of the said Act or of the rules made there under (including the amount required to be paid to the credit of the Central Government under Section 11D of the said Act) within his jurisdiction and thereby to exercise all the powers of such officer specified under the said section 11.

[Notification No. 4/2004-C.E. (N.T.), dated 17-2-2004]

After 60
days
P.D.

OFFICE OF THE ASSISTANT COMMISSIONER : CENTRAL EXCISE
BHANGAGARH, GUWAHATI-5

OFFICER ORDER

Dated Guwahati, the 7/4/04 1904

Deputy

1. The Asstt. Commissioner of Central Excise, Guwahati-5 has been pleased to sanction leave to

Shri/Smti M. K. Brahma, Supdt. C. Ex Hqrs as follows :-
Leave cell Guwahati,

2. Shri/Smti.

is hereby granted leave as follows :-

a) Earned Leave for 5 days from 12/4/04 to 16/4/04
b) Earned Leave for _____ days from _____ to _____
c) Earned Leave for _____ days from _____ to _____
d) Half-Pay Leave for _____ days from _____ to _____
e) Commuted Leave for _____ days from _____ to _____
f) L. N. D. from _____ days from _____ to _____
g) Ex-Leave without pay for _____ days from _____ to _____

Prefixing 9/4/04, 10/4/04 and 11/4/04 and

suffixing 17/4/04 on 18/4/04

Se/1/ Administrative Officer of
Central Excise, Guwahati

C. No. II (20) 111 |Leave |Aeg/08/ u/29/30

Dated : 7.4.04

Copy forwarded for information & necessary action to :-

1) Shri/Smti M. K. Brahma, Supdt. C. Ex Hqrs Leave cell Guwahati
Central Excise, Guwahati-5 (Assam)

2) The Supdt. of Central Excise

3) Bill Secy., C.E. Guwahati Divisional Office.

4) A. P. R. O., Central Excise, Guwahati-5 (Assam)

Smti - P. K. Das, Supdt C. Ex Tech-II Guwahati will look after the work of

Smti - M. K. Brahma, Supdt C. Ex Hqrs Leave cell Guwahati during leave
period.

Done on 7/4/04
Administrative Officer,
Central Excise Guwahati

*Placed by
P. K. Das*

To,
The Deputy Commissioner
Central Excise
Sethi Trust Building 6th Floor
Bhangagarh, Guwahati - 5

"Leave Extension up to 23rd April 04 Solicited"

M.K.Brahma
Fakiragram, Puran Bazar
Fakiragram
Date:- 16th April 04

[SENDING REPORT]

Apr. 16 2004 12:44PM

OTHER FAX/SIMLE	START TIME	USAGE TIME	MODE	PAGES	RESULT
01 036142452816	Apr. 16 12:43PM	00'25	SND	01	OK

Attested
B. Datta
Dob.



FAX

COMMISSIONER OF CENTRAL EXCISE
MORELLO COMPOUND
M.G. ROAD, SHILLONG

Tel. 91-0364-2224751 / 2223030.

FAX 91-0364-2223428 / 2226215.

E-Mail: ce@shillong.cexexcindia.in

ESTABLISHMENT ORDER No. 60/2004

DATED SHILLONG THE 13th APRIL 2004

Subject : - Establishment transfer, posting and adjustment in the grade of Superintendent - Order regarding.

The following transfers, postings and adjustment in the grade of Superintendent are hereby ordered with immediate effect and until further orders.

Sl.No.	Name	From	To
1.	Shri Dibakar Choudhury	Law Branch, Central Excise Hqrs., Shillong.	Guwahati Range I, Guwahati Division.
2.	Shri R.K. Sarkar	Guwahati Range I, Guwahati Division.	Dibrugarh Central Excise Commissionerate.
3.	Shri M.K. Brahma	Hqrs. Law Unit, Central Excise, Guwahati	Dibrugarh Central Excise Commissionerate.
4.	Shri Ramashwar Bhattacharjee	Silchar Divisional Office, Silchar Division	Agartala Range, Silchar Division
5.	Shri S.K. Roy	Agartala Range, Silchar Division,	Dibrugarh Central Excise Commissionerate.
6.	Shri Sudip Dov	Tech. Branch, Tezpur Division, Dibrugarh Commissionerate.	Hqrs. Law Unit, Central Excise, Guwahati

(I) This order is issued on administrative grounds.

(II) The officers stand relieved on 16th April 2004.

(III) Shri. Ashish Roy, Superintendent, Appeals Branch is directed to hold additional charge of Law Branch Central Excise Hqrs., Shillong with immediate effect and until further orders.

This issues with the approval of the Commissioner, Central Excise, Shillong.

(B. THAMAN)
ADDITIONAL COMMISSIONER (P.C.Y.)

C.No.II(3)15/ET-II/2003/ 11056 - 80

Dated : 13 APR 04

Copy forwarded for information and necessary action to:-

1. The Chief Commissioner, Customs & Central Excise, Shillong Zone, 'CRESCENS' Building, M.G. Road, Shillong -1.

Contd.. page - 2

Dated by
 K.D. Roy

25

30

-2-

2. The Commissioner, Customs (Preventive), NER, Shillong.
3. The Commissioner, Central Excise, Dibrugarh.
4. The Commissioner (Appeals), Central Excise, Guwahati.
5. The Additional Commissioner (P&V), Central Excise, Dibrugarh.
6. The Additional Commissioner (Tech), Central Excise, Hqrs. Office Shillong. Copy meant for the concerned officer is enclosed.
7. The Additional Commissioner (P&I), Customs (Preventive), NER, Shillong.
8. The Joint Commissioner (P&V), Central Excise, Dibrugarh. Division, Shillong/Dibrugarh
9. The Deputy/Assistant Commissioner, Central Excise, _____ Commissionerate. Copy(s) meant for the concerned officer is/are enclosed.
10. The CAO, Central Excise, Shillong Commissionerate.
11. The PAO, Customs & Central Excise, Shillong.
12. Accounts & II/ Confidential Branch/CIU-Vigilance Branch, Central Excise Hqrs. Shillong.
13. Shri. _____ Superintendent, for compliance.
14. The General Secretary Group 'B' Superintendents' Association, Customs & Central Excise, Shillong/Dibrugarh.
15. Guard File.

13.4.04
13.4.04
ADDITIONAL COMMISSIONER (P&V)*Placed by
B. D. D.*

Contd... page -2-