

CENTRAL ADMINISTRATIVE TRIBUNAL,
JABALPUR BENCH,
JABALPUR

Review Application No. 10 of 2007 in
Original Application No. 61 of 2005

Jabalpur, this the 01st day of November, 2007

Hon'ble Dr. G.C. Srivastava, Vice Chairman
Hon'ble Mr. A.K. Gaur, Judicial Member

1. Union of India, through : the Chairman,
Central Board of Direct Taxes, North Block,
New Delhi.
2. Chief Commissioner of Income Tax, Central
Revenue Building, Raipur.
3. Commissioner of Income Tax, Central
Revenue Building, Raipur.
4. Joint Commissioner of Income Tax,
Range-II, Central Revenue Building,
Raipur.
5. Zonal Accounts Officer, Central Board
of Direct Taxes, Income Tax Department,
184, M.P. Nagar, Bhopal.

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Applicants

(By Advocate – Shri S.A. Dharmadhikari)

V e r s u s

1. K.S. Thakur, Sr. TA (Retired),
Resident of 4/1433, Gangaram Nagar,
Ramkund, Raipur (CG).

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Respondent

(By Advocate – Shri M.N. Banerjee)

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ORDER

By A.K. Gaur, Judicial Member –

Heard the learned counsel for the applicants Shri S.A. Dharmadhikari and Shri M.N. Banerjee, learned counsel for the respondent and carefully perused the pleadings and records of the case.

2. The applicants have filed the aforesaid review petition for reviewing the order passed by this Tribunal in OA No. 61 of 2005 on 18th October, 2005. The Tribunal observed as under:

“6. Considering all the facts and circumstances of the case we find that admittedly the applicant himself neither mis-represented or concealed any fact in this regard before the respondents. The respondents are directed to pay the amount of CDS which is not yet finalized by the respondents themselves. As regards all other dues the matter relates to the documents. The applicant is directed to submit a fresh representation within a period of 15 days from the date of receipt of a copy of this order giving complete details. If he complies with so, the respondents are directed to consider and decide the said representation of the applicant within a period of three months from the date of receipt of the representation of the applicant by passing a speaking, detailed and reasoned order. The respondents are further directed to permit the applicant to inspect the concerned records relating to the said dues in question and if any amount is found to be paid to the applicant then the same shall be paid to the applicant within the aforesaid period with interest at the prevalent rates.”

3. Aggrieved by the aforesaid order the applicants in the present review petition (respondents in the OA) have filed a Writ Petition No. 1464 of 2007 before the Hon'ble High Court of Madhya Pradesh. The Hon'ble High Court of Madhya Pradesh on 14.2.2007 has passed the following order:

“Mr. S. Dharmadhikari, learned counsel for petitioner seeks leave of this Court to withdraw the writ petition to file an application for review before the tribunal. It is submitted by him that the original petitioner was not entitled to CDS as the same has been written off because of delay. As the learned counsel has canvassed for leave to

file the application for review, we will direct the tribunal to dwell into it. (emphasis supplied).


With the aforesaid observation, the writ petition is permitted to be withdrawn."

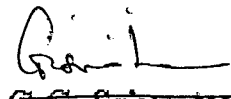
4. The main ground taken by the applicants before the Hon'ble High Court as well as in the present review petition is that the Tribunal did not consider the fact that balances under the CDS Account were written off by the Principal Chief Controller of Accounts, CBDT, New Delhi. The pay of CDS to the respondent (applicant in the OA) relates to the year 1993-94 and as the Government of India had provided an opportunity to the government servants who did not receive the payment of CDS, old and new, were to get their all claims settled by a particular date, the payment of CDS can not be made at this stage to the respondent since the correct amount due is not ascertainable in the absence of proper records.

5. We have gone through the entire reply thoroughly filed by the applicants (respondents in the OA) in the Original Application. We find that no such ground was ever taken by the applicants in the reply filed by them in the OA. Thus, the main ingredients prescribed for filing a review petition are completely lacking. It is settled principle of law that the Tribunal cannot act as an appellate court for reviewing the original order and this proposition of law is supported by the decision of the Hon'ble Supreme Court rendered in the case of Union of India Vs. Tarit Ranjan Das - 2004 SCC (L&S) 160. Further in 2002 SCC (L&S) 18 - K.L. Nandakumaran Nair Vs. K.I. Philip & Ors., the Hon'ble Supreme Court has clearly held that if in a case where Tribunal has totally ignored the pleadings and shut its eyes to the materials available, in such circumstances the review application could be maintainable. The Hon'ble Supreme Court also in the case of Subhash Vs. State of Maharashtra & Anr. - 2002 (1)

ATJ 551 has clearly held that unless the error is plain and apparent, the Tribunal has no jurisdiction to interfere with its order.

6. Hence, in view of the discussion made above, we are of the considered opinion that the applicants have failed to make out any case for review of the judgment and order dated 18th October, 2005 passed in OA No. 61 of 2005. Accordingly, the present review petition is dismissed.


(A.K. Gaur)
Judicial Member


(Dr. G.C. Srivastava)
Vice Chairman

"SA"

पूठांकन सं ओ/न्या.....जवलपुर, दि.....

पतिलिपि अद्योषित:-

(1) सचिव, उच्च न्यायालय चार एडमिनि..... जवलपुर

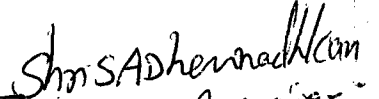
(2) आवेदक श्री/श्रीमती/कु..... काउंसल

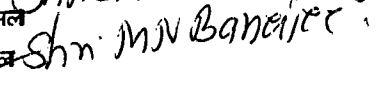
(3) प्रत्यर्थी श्री/श्रीमती/कु..... काउंसल

(4) वॉयसल, के.प्र.अ., जवलपुर वॉयसल

सूचना एवं आवश्यक कार्यवाही हेतु

उप रजिस्ट्रार


Shri S. Adhennadham


Shri M.N. Banerjee


22/11/07