

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

Circuit Sitting at BILASPUR

Original Application No. 278/2002

Bilaspur, this the 8th day of December, 2003

Hon'ble Shri M.P.Singh, Vice Chairman
Hon'ble Shri G. Shanthappa, Judicial Member

Virender Kumar Sharma
Income Tax Inspector
265, Sunder Nagar
Mahadeo Ghat Road
Raipur (Chhatisgarh). ... Applicant

(By Advocate: Shri M.N.Banerjee)

Versus

1. Union of India through
its Secretary
Ministry of Finance
North Block
New Delhi.
2. Chairman, Central Board of
Direct Taxes,
North Block
New Delhi.
3. Chief Commissioner of Income Tax
Ayakar Bhavan, Hoshangabad Road
Bhopal (M.P.).
4. Commissioner of Income Tax
Ayakar Bhavan
Hoshangabad Road
Bhopal.
5. Chief Commissioner of Income Tax
Central Revenue Building
Civil Lines, Raipur
(Chhatisgarh).
6. Commissioner of Income Tax,
Central Revenue Building
Civil Lines, Raipur.
7. Additional Commissioner of Income Tax
Range-II, Central Revenue Building
Raipur.
8. Asstt. Commissioner of Income Tax
Raipur. Respondents

(By Advocate: None)

ORDER (Oral)



By G. Shanthappa, Judicial Member -

The above Original Application is filed seeking the relief to expunge the adverse remarks recorded in the ACR of the applicant for the year 1997-98 and also to quash the order of the Commissioner at Annexure A-2 and the order of the appellate authority dated 30.03.2001.

2. The case of the applicant is that while he was working as Income Tax Inspector, for the year 1997-98 the reporting authority as reported the following adverse remarks in his ACR.

"The reduction of demand was mainly attributable the large sums of arrear demand paid by M/s Bhimandas Gulabrai Group cases and deletion of demands at the first appellate stage. The Inspector could have played a more effective role in other areas of arrear demand."

रिपोर्टिंग अधिकारी द्वारा कालम 12 की प्रविष्टि स्पष्टतः प्रतिकूल है। चूंकि श्री शर्मा द्वारा कालम 11 में दिये गये संग्रहण संबंधी कार्यवाही व लक्ष्य पूर्ति का कारण DIS-PUTE किया है। व यह लिखाकर की बकाया मांग में REDUCTION मुख्यतः भीमनदास, गुलाबराय ग्रुप द्वारा भुक्तान और प्रथम अपीलीय स्तर पर छुट के कारण था। अर्थात् निरिक्षक मांग व वसूली की दिशा में प्रभावशाली कार्य कर सकते थे। यह टिप्पड़ी स्पष्टतः प्रतिकूल है।

कालम 16 में रिपोर्टिंग अधिकारी ^{ने} समय पालन के सामने "अच्छा" लिखा है। यह प्रविष्टि सही नहीं है। चूंकि रिपोर्टिंग अधिकारी द्वारा सहायक आयकर आयुक्त वृत्त रायपुर से एवं अधोहस्ताक्षरकर्ता से किया गया गया पत्राचार यह साबित करता है कि श्री शर्मा समय का पालन आदतन नहीं करते व कई बार बगैर अधिकारी की इजाजत/सूचना के कार्यालय से अनुपस्थित रहे इनका कार्य न करना उनके द्वारा दी गई चन्द की पछावाड़ा डायरियों से साबित होता है।

The applicant preferred an appeal before the appellate authority. The appeal has been decided by the appellate authority without assigning any reason. The order of the appellate authority is at Annexure A-3. The appellate authority has decided the appeal only by four lines. No reason has been accorded and it is a non-speaking order. A

similar order has been passed by the revisional authority. The order of the revisional authority is at Annexure A-2. The applicant has taken the contention that his performance was good and without recording the proper reasons the reporting authority has decided the matter, which has been accepted by the reviewing authority, which is illegal. Since there are no adverse remarks and wrongly the revisional authority has decided the matter, hence the Tribunal has to decide the issue with regard to the adverse remarks for the year 1997-98.

3. Per contra the respondents have filed reply denying the ~~adverse~~ ^{averments and} allegations made by the applicant and submits that no illegality has been committed by the respondents. Accordingly the Original Application is liable to be rejected. Alongwith the reply the respondents have also produced the records to show that the performance of the applicant was not good. Hence the reviewing authority has decided the matter by rejecting the representation of the applicant. Accordingly the adverse remarks are passed in the service ~~book~~ ^{records} of the applicant.


4. The respondents have also contended that the representation of the applicant has been disposed of in accordance with the rules as published in the Swamy's Compilation regarding manner of disposal of the representation. Accordingly the respondents have requested to reject the OA.

5. After perusal of the records and after going through the orders of the reviewing authority and the appellate authority, ^{we are of the view that} since the authorities have not passed a reasoned and speaking order, though the appeal was filed in the year

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1999 at Annexure A-5 and the respondents did not considered the appeal and passed the order after lapse of more than one year, we proceed to pass orders directing the respondents to ignore the adverse remarks recorded in the year 1997-98 on the ground that the authorities have not properly applied their mind while recording the adverse remarks.

6. Accordingly the Original Application is allowed and the adverse remarks recorded for the year 1997-98 are expunged and the orders at Annexure A-2 and Annexure A-3 are quashed. The respondents are directed to consider that there are no adverse remarks recorded for the year 1997-98 in the ACR of the applicant. No costs.


(G. Shanthappa)
Judicial Member

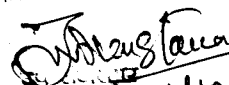

(M.P. Singh)
Vice Chairman

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MN Bhangar, Adv.
on Name Adv.


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