

**Central Administrative Tribunal
Jaipur Bench, JAIPUR**

OA. No.481/2006 with MA.No.66/2010

This the 17th day of March, 2010

Hon'ble Shri M.L. Chauhan, Member (Judicial)
Hon'ble Shri B.L. Khatri, Member (Administrative)

Smt. Sharda T.Nair wife of Shri P.T.Nair aged about 60 years, resident of 218-A, Shanti Nagar-B Gurjar Ki Thadi, Jaipur Retired Inspector, Income-Tax Office of Commissioner of Income Tax Office, Jaipur-1, Jaipur(Raj.)

...Applicant

(By Advocate: Shri Ashok Kumar Bhargava)

- VERSUS -

1. The Commissioner of Income of Tax, Jaipur-1,
Jaipur, Central Revenue Building, Statute Circle, C-Scheme, Jaipur.
2. The Joint Commissioner of Income Tax, Range-3, Jaipur, Central
Revenue Building, Statute Circle, C-Scheme, Jaipur.

.....Respondents

(By Advocate: Shri Gaurav Jain)

ORDER (ORAL)

The applicant has filed this OA, thereby praying for the following reliefs:-

The application of the applicant may kindly be accepted and the departmental proceedings be stayed till the disposal of the Criminal case pending in the Court of the Special Judge (C.B.I. Case), Jaipur in view of the grounds submitted in para 6 above, impugned order Annexure A-1 dated 14.10.2006.

Any other order or direction deemed just and proper in the facts and circumstances of the case may kindly be passed.

2. As can be seen from the prayer clause, the limited prayer of the applicant in this case is that OA may kindly be accepted and the departmental proceedings be stayed till the disposal of the Criminal case pending in the Court of the Special Judge(C.B.I. case), Jaipur.

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3. Notice of this application was given to the respondents. Respondents have filed their reply thereby justifying their action stating that both the proceedings vis-à-vis criminal proceedings and departmental proceedings are independent proceedings, which can be continued. The respondent has also placed reliance upon the judgment delivered by the Hon'ble Supreme Court of India in the case of **Hindustan Petroleum Corporation Ltd. & Others Vs. Sarvesh Berry reported in 2005 (10) SSC 471**, whereby the apex court has held that both departmental and criminal proceedings can continue simultaneously as both the proceedings are independent proceedings. Hence, the plea of the applicant is not tenable. Learned counsel for respondents has also placed on record the letter dated 16.3.2010, perusal of which reveals that departmental proceedings against the applicant has been concluded and enquiry report has been submitted to the competent authority, which letter is taken on record.

4. In view of this subsequent development, we are of the view that no relief can be granted to the applicant as the present Original Application has become infructuous, which is accordingly disposed of.


5. Learned counsel for applicant has also filed MA.66/2010 thereby seeking permission to amend the present Original Application. Alongwith this MA, applicant has also annexed copy of amended OA. In the MA, the applicant has not specified the para(s) as well as relief clause which he wants to incorporate by way of amendment in the original OA.


6. Thus, according to us such an application for amendment cannot be entertained unless the applicant specify the para(s) and prayer clause which he wants to incorporate as an additional ground/averment in the original OA. That apart even if this objection is not taken into

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consideration, the grievance of the applicant as can be seen from the amended OA, is that respondents could not have proceeded against the applicant inasmuch as subsequently charge sheet has been issued against Shri Atulesh Sharma on 6.2.2009 and under such circumstances only joint inquiry could have been held against the applicant and Sh. Atulesh Sharma. Based on these allegations and new plea taken in the amended OA it has been prayed that departmental proceeding against the applicant may be stayed till the disposal of the criminal case pending before the Special Judge (C.B.I) Jaipur. Even if this MA is allowed and amended petition is taken on record even then the applicant is not entitled to any relief inasmuch as the proceeding/ inquiry has already been concluded and as such the question of staying the departmental proceeding does not arise.

7. In view of what has been stated above, no relief can be granted to the applicant and the OA alongwith MA shall stands dispose of accordingly.


(B.L. Khatri)
Member (Administrative)


(M.L. Chauhan)
Member (Judicial)

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