

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH**

Jaipur, this the 26th day of October, 2010

ORIGINAL APPLICATION NO. 453/2009

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HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER

Yogesh Kumar Gupta son of Shri P.P. Gupta, aged 52 years, resident of 72-73, Shanti Nagar, Durgapura Railway Station, Jaipur. Presently posted as Superintendent Customs and Central Excise, Jaipur.

.....Applicant

(By Advocate: Mr. Rajendra Arora)

VERSUS

1. Union of India through the Chairman, Central Board of Excise and Customs, Ministry of Finance, Department of Revenue, North Block, New Delhi.
2. The Chief Commissioner, Central Excise & Customs, New Central Revenue Building, Statue Circle 'C' Scheme, Jaipur.
3. The Commissioner, Central Excise Commissionerate Jaipur II, New Central Revenue Building, Statue Circle, 'C' Scheme, Jaipur.
4. The Deputy Commissioner, Central Excise Division, Udaipur.

.....Respondents

(By Advocate: Mr. Anil Mehta)

ORDER (ORAL)

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

- "(a) That impugned order dated 07.10.2008 (Annexure A/1) may be declared illegal and the same be quashed and applicant may be allowed all consequential benefits including refund of the amounts deducts from his salary in pursuance with impugned order.
- (b) Any other order, directions or relief as may be deemed fit, just and proper under the facts and circumstances of the case and are in favour of the applicant may also be passed.

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- (c) That the cost of this application may be awarded in favour of the applicant."

2. When the matter was listed on 02.09.2010, this Tribunal had passed the following order:-

"Although the respondents have filed reply but the same has not been filed keeping in view the observations made by this Tribunal vide order dated 05.05.2010 whereby the applicant has submitted that the case is fully covered by the judgment rendered by the Jodhpur Bench in OA No. 240/08 decided on 15.1.2010. The respondents in the reply have not anywhere stated that the case of the applicant is not covered by the aforesaid judgment and whether the judgment passed by the Jodhpur Bench has been challenged before the High Court and if so, whether stay has been granted by the Hon'ble High court. From the stand taken by the respondents in reply, it is evident that the respondents have not opposed claim of the applicant. As a matter of last indulgence, further opportunity is granted to the respondents to file affidavit in terms of order dated 5.5.2010 failing which this Tribunal will dispose of the matter on the basis of the judgment rendered by the Jodhpur Bench for which the respondents are also not objecting.

....."

3. Learned counsel for the respondents submits that this matter is fully covered by the judgment rendered by the Jodhpur Bench in OA No. 240/2008 decided on 15.01.2010 and the said OA can be disposed on the basis of the judgment rendered by the Jodhpur Bench of the Tribunal.

4. In view of the concession made by the learned counsel for the respondents, the present OA is disposed of. Accordingly the impugned order dated 07.10.2008 (Annexure A/1) is quashed and the amount so deducted consequent upon the said order shall be returned to the



applicant within a period of three months from today failing which the applicant shall be entitled to the interest @ 6% per annum from the expiry of three months from today.

5. With these observations, the OA is disposed of with no order as to costs.


(M.L. CHAUHAN)
MEMBER (J)

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