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**CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR**

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**ORDER SHEET**

**ORDERS OF THE TRIBUNAL**

25.05.2011

OA 466/2009

Mr. N. C. Choudhary, counsel for applicant.  
Mr. Vineet proxy for Sh. Gaurav Jain, counsel for respondents.

Put up after vacation on 26.7.2011, as prayed for by learned counsel for the parties.

Anil Kumar  
(Anil Kumar)  
Member (A)

mk

K. S. Rathore  
(Justice K.S.Rathore)  
Member (J)

26/7/2011

CASE NOT REACHED  
PUT UP FOR HEARING  
ON 29/7/2011

Qr. 18(6)(c)  
COURT OFFICER

02/09/2011 (OA 466/2009)

Mr. Amit Kumar Jain, Counsel for applicant.  
Mr. N. C. Choudhary, Counsel for applicant.  
Mr. Gaurav Jain, Counsel for respondents.

Heard.

The O. A. is disposed of by a separate order on the separate sheets for the reasons recorded therein.

Anil Kumar  
[Anil Kumar]  
Member (A)

Sh. Gaurav

K. S. Rathore  
(Justice K.S.Rathore)  
Member (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH

Jaipur, this the 2<sup>nd</sup> day of September, 2011

**Original Application No.466/2009**

CORAM:

**HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)  
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)**

Bhagirath Prasad Meena  
s/o Shri Bux, r/o Chainpura,  
Tehsil Jamwaramgarh,  
District Jaipur, working as  
Tax Assistant, in the office of  
Commissioner of Income Tax-II,  
Jaipur.

.. Applicant

(By Advocate: Shri Amit Kumar Jain, proxy counsel for Shri N.C.Chaudhary)

Versus

1. Union of India through  
the Secretary, Ministry of Finance,  
Department of Revenue,  
New Delhi.
2. The Chief Commissioner of Income Tax,  
New Central Revenue Building,  
Jaipur.
3. Commissioner of Income Tax,  
Jaipur-II, Jaipur

.. Respondents

(By Advocate: Shri Gaurav Jain)

ORDER (ORAL)

The present OA is directed against the letter dated 22/23.9.2009 (Ann.A/1) which has been issued by the Income Tax Officer (Hrs.) O/o the Commissioner of Income Tax, Jaipur-II, Jaipur to the Enquiry Officer for timely completion of disciplinary proceedings in the case of Shri Bhagirath Meena (applicant). By way of the present OA, the applicant prayed for order or direction to the respondents to stay the disciplinary proceedings pending against the applicant till the decision of the criminal case.

2. Learned counsel appearing for the respondents has submitted that the present controversy has been settled by this Tribunal in OA No.472/2009 vide order dated 21.4.2011 wherein this Tribunal having considered the ratio decided by the Hon'ble Supreme Court in the case of Noida Entrepreneurs Association vs. Noida and Ors. [2007 (10) SCC 385], Kendriya Vidyalaya Sangathan and Others vs. T.Srinivas [(2004) 7 SCC 442] and the decision dated 18<sup>th</sup> February, 2011 of the Full Bench at CAT-Principal Bench in OA No.2816/2008 observed that departmental proceeding can continue even if criminal trial is pending and in view of the ratio decided by the Supreme Court in the case of Noida Entrepreneurs, Kendriya



Vidyalaya Sangathan and by the Full Bench of the CAT-Principal Bench (supra), the OA was dismissed.

3. The order dated 21.4.2011 passed by the Tribunal in OA No.472/2009 has been assailed by the applicant before the Division Bench of the High Court. The Division Bench of the High Court in D.B.Civil Writ Petition No.6852/2011 vide its judgment dated 24.5.2011 upheld the judgment passed by this Tribunal observing as under:-

"In our opinion, the purpose of departmental enquiry and criminal proceedings is different. The burden of proof required to be proved in both the proceedings is also different. In the criminal case, the charges have been framed and the same were denied and evidence has already commenced and most of the witnesses have been examined from the prosecution side. Thus, departmental enquiry can continue despite pendency of criminal case. No prejudice is going to be caused in the instant case if departmental proceedings are allowed to continue inspite of pendency of criminal proceedings. Thus, the order of the Tribunal refusing to stay departmental proceedings does not call for interference."

4. Upon careful considering the facts and circumstances of the present OA, we find that the present OA is squarely covered by the judgment rendered by this Tribunal in OA No.472/2009, ~~A~~Atulesh Sharma vs. Union of India and ors., which has been upheld by the Hon'ble High Court vide order dated 24.5.2011. Consequently, in the light of the judgment of this Tribunal dated 21<sup>st</sup> April, 2011 and the judgment of the Hon'ble High Court dated 24.5.2011 upholding the judgment of this



Tribunal, this OA deserves to be dismissed being devoid of merit, which is accordingly dismissed with no order as to costs.

*Anil Kumar*  
(ANIL KUMAR)  
Admv. Member

*K. S. Rathore*  
(JUSTICE K.S.RATHORE)  
Judl. Member

R/