

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.**

O.A.No.753/2016 with MA No.36/2018

Ahmedabad, this the 22nd day of February, 2018

Coram :

Hon'ble Dr. K.B.Suresh, Member (J)

Hon'ble Shri K.N.Shrivastava, Member (A)

Shri Lalit Chandra C Patel

S/o. Shri Chhitabhai Patel

Age : 68 years

Retired as ACCO/CAO under

Central Excise and Customs Commissioner, Abad-III

Residing at : 30, Shivdas Society,

Nr. Vadsar Railway Bridge,

Vadodara-10 Applicant

(Advocate : Ms. S.S.Chaturvedi)

VERSUS

1. Union of India
Notice to be served through
Chairman
Central Board of Excise and Customs,
Ministry of Finance, Department of Revenue
North Block, New Delhi 110 001.
2. Asstt. General Manager
State Bank of India
6th Floor, Gadhinar Zonal Office,
Opp. New Sachivalaya, Sector 10-B,
Gandhinagar 380 010.
3. Central Pension Accounting Office

Govt. of India, Trikoot-2
Bhikhaji Cama Palace, New Delhi 110 066.

4. Pay and Accounts Officer
Central Excise Commissionerate
Nav Gujarat College Building
Ashram Road,
Ahmedabad 380 014. Respondents

(By Advocate : Ms. R.R.Patel, Ms. Kajal Kalwani)

ORDER (ORAL)

Per : Hon'ble Dr. K.B. Suresh, Member (J)

After we have heard the matter for some time, it transpires that actual issue in the matter is not concerning the sovereign powers of the Government to grant or not to grant the pension. Issue is only under Banking Regulation Act, 1949 and cognate Banking Rules, which grant a lien for a banker to realising any money which has been paid incorrectly. Whether it has been paid correctly or incorrectly, but then proper authority which has to decide the matter is Civil Court and acting on declaratory jurisdiction under Section 9 of the CPC. Therefore, on realising this, the learned counsel for the applicant seeks to withdraw this OA so as to enable her to approach the Civil Court for proper jurisdiction. Since the matter has been agitated before us, and before the Hon'ble High Court and the Hon'ble Supreme Court, we hereby declare that time taken for this exercise will not be counted for advent of limitation. Since we grant her liberty, the set of principles of res-judicate also will not arise since we grant her

specific permission to do so on the basis of jurisdiction as being different. Therefore, she is directed to take back the file and represent it to proper authority within two months from today even if in a different format to Suit Order VII of Rule 1 of CPC and if she does so, it will be considered as if within territorial and pecuniary jurisdiction. It is made clear that Bank will continue to pay pension which they are now paying on the corrected version. The OA is disposed off with this direction. MA No. 36/2018 also stands disposed of. No costs.

(K.N.Shrivastava)
Member (A)

(K.B.Suresh)
Member(J)

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