

**Central Administrative Tribunal  
Principal Bench  
New Delhi**

RA No.284/2016

In

OA No.788/2014

New Delhi this the 22<sup>nd</sup> day of December, 2016.

**Hon'ble Mr. Raj Vir Sharma, Member (J)**  
**Hon'ble Mr. K.N. Shrivastava, Member (A)**

R.N. Zutshi,  
S/o late Shri A.N. Zutshi,  
R/o 111, Acharya Puri,  
Near Roadways Workshop,  
Gurgaon, presently in Delhi.

-Applicant.

Versus

1. Union of India through  
Secretary (Revenue),  
Ministry of Finance,  
Department of Revenue,  
North Block,  
New Delhi.
2. Chief Commissioner of Customs,  
New Custom House,  
IGI Airport,  
New Delhi.
3. Commissioner of Custom (I&G),  
New Custom House,  
IGI Airport,  
New Delhi.
4. Additional Commissioner (P&V),  
Central Excise, (Delhi-I),  
C.R. Building,  
I.P. Estate,  
New Delhi.

- Respondents

**O R D E R (By Circulation)**

**Mr. K.N. Shrivastava, Member (A):**

Through the medium of this Review Application (RA) filed under section 22(3)(f) of the Administrative Tribunals Act, 1985, the applicant has sought review of this Tribunal's order dated 26.10.2016 in OA-788/2014. The operative part of the order under review reads as under:

“9. In the conspectus of the discussions held in the foregoing paragraphs, we dispose of this OA with the following directions to the parties:

- i) The respondents shall provide copies of all the 11 documents allowed by the IO to the applicant within two weeks of the receipt of a certified copy of this order.
- ii) The DE proceedings would be concluded within three months of the receipt of a certified copy of this order.
- iii) There shall not be any insistence on the part of the applicant for the inspection of the originals of the prosecution documents, as we have already observed that the photocopies of such documents are good enough for the DE proceedings to continue.
- iv) The applicant shall fully cooperate in the enquiry.”

2. The applicant in the RA has mentioned the following grounds in support of his prayer for review:

- i) The Tribunal's decision to remand the matter to the Disciplinary Authority/Inquiry Officer to conduct and conclude the inquiry on the basis of Photostat copies is in disregard to the CBEC's Circular dated 24.02.2011 as also contrary to its own decision in similar case.
- ii) The DoPT UO Note No.1459/2000-Ad.V dated 22.08.2000 together with UO Note No.21975/2000 dated 04.09.2000 of

Ministry of Law discussing the legal position of cases where original documents are not available for inspection has clarified that certified copies can be used only when the original documents are destroyed/lost. In the present case the documents required are not destroyed or lost, and as such the Photostat copies cannot be used in the inquiry proceedings.

iii) The RUDs in Annexure-III to the charge sheet, cannot be relied upon as no panchnama/seizure memo/handing over/taking over receipt was drawn to disclose their source. The disciplinary proceedings against the applicant were not initiated on the recommendations or investigation of CBI; hence the contention of the respondents that original documents are with the CBI is absolutely false. From the letter of the CBI, it is clear that the CBI is not aware of the documents relied upon for initiating the DE proceedings. The CBI has also not stated anywhere that the documents relied upon by the Department in the DE proceedings have been filed by it in the CBI Court.

2. The *sine qua non* for reviewing the order passed by the Tribunal is existence of any error on the face of the record. The review applicant has failed to point out any palpable error in the order under review. The grounds pleaded in the RA were raised by the applicant in the OA. The Tribunal has considered all those

grounds and finally passed the order under review, dated 26.10.2016.

3. Hence, we hold that the applicant has failed to point out any error apparent on the face of the order under review.

4. On the power of the Tribunal to review its own orders the Hon'ble Supreme Court has laid down clear guidelines in its judgment in the case of **State of West Bengal & others Vs. Kamal Sengupta and another**, [2008 (3) AISLJ 209] stating therein that *“the Tribunal can exercise powers of a Civil Court in relation to matter enumerated in clauses (a) to (i) of sub-section (3) of Section (22) of Administrative Tribunal Act including the power of reviewing its decision.”*

At Para (28) of the judgment, the principles culled out by the Supreme Court are as under:-

“(i) The power of Tribunal to review its order/decision under Section 22(3) (f) of the Act is akin/analogous to the power of a Civil Court under Section 114 read with order 47 Rule (1) of CPC.

(ii) The Tribunal can review its decision on either of the grounds enumerated in order 47 Rule 1 and not otherwise.

(iii) The expression “any other sufficient reason” appearing in Order 47 Rule 1 has to be interpreted in the light of other specific grounds

(iv) An error which is not self-evident and which can be discovered by a long process of reasoning, cannot be treated as a error apparent in the fact of record justifying exercise of power under Section 22(2) (f).

(v) An erroneous order/decision cannot be corrected in the guise of exercise of power of review.

(vi) A decision/order cannot be reviewed under Section 22(3) (f) on the basis of subsequent decision/judgment of a coordinate or a larger bench of the Tribunal or of a superior court

(vii) A decision/order cannot be reviewed under Section 22(3)(f).

(viii) While considering an application for review, the Tribunal must confine its adjudication with reference to material which was available at the time of initial decision. The happening of some subsequent event or development cannot be taken note of for declaring the initial order/decision as vitiated by an error apparent.

(ix) Mere discovery of new or important matter or evidence is not sufficient ground for review. The party seeking review has also to show that such matter or evidence was not within its knowledge and even after the exercise of due diligence the same could not be produced before the Court/Tribunal earlier.”

5. In the conspectus of the discussions in the foregoing paras, we do not find any merit in the RA. Hence the RA is dismissed in circulation.

**(K.N. Shrivastava)**  
**Member (A)**

**(Raj Vir Sharma)**  
**Member (J)**

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