

**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-785/2012

New Delhi, this the 15th day of November, 2016.

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. Shekhar Agarwal, Member (A)**

S.R.Senapati
Son of Shri B.C.Senapati
Aged about 49 years
Permanent Resident of
64, Saheed Nagar, Bhubneshwar
Presently working as
Additional Commissioner of Income Tax. Applicant

(By Advocate : Sh. A.K. Behera)

Versus

1. Union of India through the Secretary
Department of Revenue
Ministry of Finance
North Block
New Delhi – 110 001.

2. Chairman
Central Board of Direct Taxes
North Block
New Delhi – 110 001. Respondents

(By Advocate : Sh. R.N. Singh)

ORDER (ORAL)

Hon'ble Mr. Justice Permod Kohli

In the year 2005-06, the applicant was posted as Additional Commissioner of Income Tax under the Commissionerate of Kozhikode, Range 3. It is stated that Kozhikode Commissionerate has three Ranges-1, 2 and 3. The applicant was holding the substantive charge of Range 3 and additional charges of Range 1 and 2. Another Commissionerate, namely, Kannur also had two ranges

and there were no Additional Commissioners in those ranges. Thus applicant was asked to look after the charge of the said two ranges also. Vide letter dated 14.01.2011, applicant was communicated the ACRs for the financial year 2004-05 and 2005-06. His grading for the year 2005-06 was below the benchmark for the said year. The applicant filed a detailed representation against the grading awarded to him for the year 2005-06. The representation of the applicant has now been rejected vide impugned order dated 03.05.2010. The only relevant Para is Para 5 wherein the competent authority has recorded its opinion for rejecting the representation. Para 5 of the order is reproduced hereunder:

“5. AND WHEREAS, the Reporting Officer has rated the officer “Very Good” in 4 columns and “Good” in 11 columns, Although the budget collection target was achieved, the Reporting Officer has remarked in column 15 that the officer failed to mention the targed and the achievements in respect of the entire Action Plan. This is significant, as the Action Plan has several targed components and budget collection is only one of the several targets. The officer has not made out any case for having performed well in other areas of the Action Plan.”

2. Sh. A.K. Behera, learned counsel for the applicant, submits that according to the laid down norms, the Action Plan referred to in this Para contains four components- revenue collection, processing of returns, issuance of refunds and inspection as a part of the duty of Additional Commissioner. In Para 4 of the impugned order, it is stated that the applicant achieved a target of eleven crores as against eight crores as per the report of the Reporting Officer. It is however stated that achieving target is only one component whereas the applicant has failed to achieve targets in Action Plan. There is absolutely no mention as to in which of the component of the Action Plan, performance of the applicant was deficient and extent of deficiency. Thus, there does not seem to be any reason whatsoever for rejecting the representation of the applicant. Recording of reasons is *sine qua non* for validity of any order that

impacts any right of the person against whom such order is passed. The impugned order does not contain reasons for rejecting the representation much less legal and valid reasons. Without pointing out the nature and extent of deficiency in the performance of the applicant, his representation for reconsideration of the below benchmark grading has been rejected. Such order is not sustainable in law. Mr. Behera further submits that no advisory was ever communicated to the applicant regarding his performance during the period reported upon. His further submission is that keeping in view the efficiency of the applicant, he was given additional charge of four more ranges.

3. In view of the above circumstances, the impugned order is hereby set aside. The matter is remanded back to the competent authority, i.e, to the Chairman, Central Board of Direct Taxes, to re-examine the representation and decide the same by a reasoned and speaking order indicating the nature and extent of deficiency, if any. Let the decision be communicated to the applicant within a period of two months from the date of receipt of a certified copy of this order. In the event, the applicant is aggrieved of the outcome of the fresh decision, he is at liberty to seek remedial measures.

4. With the above order, the OA stands disposed of.

(Shekhar Agarwal)
Member (A)

(Justice Permod Kohli)
Chairman

/ns/