

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

OA-3398/2012

New Delhi this the 4th day of January, 2017.

Hon'ble Mr. Shekhar Agarwal, Member (A)

Hon'ble Mr. Raj Vir Sharma, Member (J)

Sh. A.S. Hasija,

S/o Sh. R.K. Hasija,

R/o H.25/4, Phase-I, DLF,

Gurgaon, Haryana.

..... Applicant

(through Sh. Piyush Kumar with Ms. Tanvi Piyush, Advocate)

Versus

1. Union of India through
Secretary (Revenue),
Ministry of Finance,
Department of Revenue,
North Block, New Delhi.

2. Commissioner of Customs
(Import & General)
New Custom House,
New Delhi.

..... Respondents

(through Sh. Rajeev Kumar, Advocate)

ORDER (ORAL)

Mr. Shekhar Agarwal, Member (A)

This O.A. has been filed seeking the following relief:-

“(a) Set aside and quash the impugned Order-in-Appeal No. CCCU(DZ)CIU/65/2011/29750 dated 24.08.2011 passed by the Chief Commissioner of Customs, Delhi Zone, New Custom House, New Delhi and Order-in-Original No. 01/I&G/2011 dated 28.04.2011 passed by the learned Commissioner of Customs (Import & General), New

Customs House, New Delhi Inflicting major penalty on the applicant.

- (b) pass such other or further order(s) in favour of the applicant as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the instant case and in the interest of justice."

2. During the course of arguments, learned counsel for the applicant submitted that a co-delinquent in this inquiry Sh. A.K. Saxena filed a OA before this Tribunal titled A.K. Saxena Vs. UOI & Ors. (OA-952/2012) challenging the orders passed in the disciplinary proceedings. This was dismissed by the Tribunal on 01.10.2013. The aforesaid order was challenged by the applicant before Hon'ble High Court of Delhi in WP(C)-3127/2014. Hon'ble High Court of Delhi vide their order dated 10.08.2016 have set aside the order passed by the Tribunal. The operative para of their order reads as follows:-

"38. Accordingly, the impugned orders passed by the Tribunal, the disciplinary authority and the appellate authority are hereby set aside/quashed. However, based on the decision rendered by the Supreme Court, as relied upon by the counsel for the respondents, in the case of **State Bank of Patiala** (supra), we remand the matter back to the disciplinary authority, which will conduct a *de novo* inquiry against the petitioner herein in accordance with law, after giving the petitioner an fair opportunity of hearing. Liberty is granted to the parties to add a list of witnesses and list of documents sought to be relied upon/examined by them in the said inquiry."

3. Learned counsel for the applicant argued that the facts of this case were identical and, therefore, this O.A. can also be disposed of

in terms of the aforesaid order of Hon'ble High Court of Delhi. This submission was not opposed by the learned counsel for the respondents.

4. Accordingly, we dispose of this O.A. in terms of the order of Hon'ble High Court of Delhi in WP(C)-3127/2014 dated 10.08.2016.

No costs.

(Raj Vir Sharma)
Member (J)

(Shekhar Agarwal)
Member (A)

/Vinita/