

Central Administrative Tribunal Principal Bench

**OA No.3935/2016
MA No.3701/2016**

New Delhi, this the 19th day of July, 2017

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)**

R.B.L. Aggarwal,
S/o Late Shri Ram Behari Lal,
Aged about 76 years,
Retd. CCIT Income Tax Dept.
R/o C/o Shri A.K. Sangal,
B-42, Arya Nagar Apartments,
I.P. Extension, Delhi-110091. ...Applicant

(By Advocate : Shri Nilansh Gaur)

Versus

1. Union of India,
Through its Secretary,
Ministry of Finance,
Department of Revenue,
Central Board of Direct Taxes,
North Block,
New Delhi.

2. Principal Chief Commissioner,
Income Tax-West Bengal & Sikkim,
Ayakar Bhawan, P-7, Chowringhee,
Square, Kolkata-700069.

...Respondents

(By Advocate : Shri Manjeet Singh Reen)

ORDER (ORAL)

Justice Permod Kohli, Chairman :-

The applicant is seeking condonation of delay (M.A. No.3701/2016) in filing OA No.3935/2016. The delay is sought to be condoned on the basis of the

following averments made in the Application for condonation:-

“4) That keeping in light the above dicta by Hon’ble Supreme Court, the applicant having retired on superannuation on 31.10.2000 on a post retiral disciplinary proceeding was issued a show cause notice only on 26.10.2013 belatedly after an inordinate and unexplained delay. The applicant by way of his representation dated 20.09.2013 also highlighted that, the disciplinary proceedings including penalty has become non-est in law, in the light of the judgment of the Hon’ble Supreme Court in B.V. Gopinath.

5) That a post retiral penalty was inflicted on 24.9.2013 of 25% pension cut for five years with prospective effect. This has been represented against on 24.9.2013. Till 27.9.2016, the penalty was not given effect to and the applicant was in a bona fide impression that, the respondents have accepted his representation and had withdrawn the penalty, did not assail it before the judicial for a. However, an abrupt decision of respondents dated 21.10.2016 whereby, admittedly, the penalty has been given effect to, a recovery has been ordered against the applicant.”

2. From perusal of the aforesaid averments, we find that the penalty order is dated 24.09.2013, which was served upon the applicant in September, 2013 itself. It is averred that the said order is sought to be implemented vide order dated 21.10.2016 and thus, the cause of action accrued to the applicant from the said date and there is no delay. Though the applicant has

sought condonation of delay of two years two months in filing the OA. He has challenged the penalty order in the main OA which was admittedly passed on 24.09.2013 and served upon the applicant in the same month.

3. Mere non-implementation of the penalty order for sometime does not give any fresh cause of action to the applicant. The explanation tendered is not satisfactory. The Tribunal cannot look into the validity of the charge sheet at this belated stage on account of limitation. The bar of limitation takes away the remedy and thus, we find that the explanation tendered is not sufficient to enable us to condone the delay. The Application for condonation is hereby dismissed and consequently the OA.

(K.N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

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