

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A No. 3524/2018

This the 23rd day of October, 2018

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)

Dr. Swetabh Suman (Group 'A')
S/o. Late Sh. B. K. Singh,
Aged about 54 years,
Presently CIT (OSD) under suspension
Attached with the office of Pr. CCIT, Guwahati,
R/o. C-10, Sector-50 Noida-201 301.
Presently in Delhi.Applicant

(By Advocate : Mr. Nilansh Gaur)

Versus

1. Union of India
Through its Secretary,
Ministry of Finance,
Department of Revenue,
North Block,
New Delhi – 110 001.
2. Central Board of Direct Taxes (CBDT),
Through its Chairman,
North Block,
New Delhi – 110 001.Respondents

(By Advocate : Mr. Rajeev Kumar)

O R D E R (O R A L)

Justice L. Narasimha Reddy, Chairman :

The applicant is a Commissioner of Income Tax. He was arrested in relation to a criminal case on 23.05.2018. By invoking the relevant provisions of CCS (CCA) Rules, the

competent authority placed the applicant under suspension through order dated 23.05.2018.

2. The Review Committee of the department reviewed the case of the applicant in the context of extension of suspension beyond 90 days. Through an order dated 09.07.2018, the suspension was extended for a period of 180 days or until further orders, whichever is earlier. It was mentioned that the allegations against the applicant is very serious, namely that he made an attempt to obtain illegal gratification of Rs.50 lakhs to pass a favourable order in appeal arising out of assessment of a shell Company.

3. This O.A is filed challenging the suspension order dated 23.05.2018 as well as the one dated 09.07.2018 through which, it was extended. The applicant submits that the said orders are contrary to the official memorandum dated 23.08.2016 issued by the DoP&T and the judgment of the Hon'ble Supreme Court in **Ajay Kumar Choudhary V. Union of India**, (2015) 7 SCC 291.

4. We heard Mr. Nilansh Gaur, learned counsel for applicant and Mr. Rajeev Kumar, learned counsel for respondents.

5. The suspension, ordered against the applicant was on the basis of his having been arrested by the CBI. The applicant is not able to demonstrate any legal infirmity in the order of suspension. Therefore, we do not find any basis to interfere with the order of suspension dated 23.05.2018.

6. The second order, which is challenged in the O.A, is the one dated 20.07.2018 through which the period of suspension is extended by 180 days. It is true that the Hon'ble Supreme Court in Ajay Kumar Choudhary (supra) observed that the suspension cannot be extended beyond 90 days, if no charge sheet or charge memo is filed beyond that period. However, it is left open to the disciplinary authority to extend the suspension beyond 90 days by recording reasons, in case, the charge memo is already filed.

7. The applicant contends that neither the charge memo nor charge sheet is filed within 90 days. This needs to be verified by the disciplinary authority. The reviewing committee did not bestow its attention to this aspect. It was concerned mostly with the gravity of the allegations against the applicant. It was mentioned that the applicant

made an attempt to get illegal gratification of Rs.50 lakhs to pass an order in an appeal arising out of the assessment in respect of a shell company. At the same time, it cannot ignore the law laid down by the Supreme Court.

8. The applicant has also stated that an officer, who was suspended in relation to the same allegation, was reinstated. If both of them stand on the same footing, the treatment cannot be different.

9. We, therefore, dispose of the O.A directing the respondents to examine the case of the applicant in terms of the judgment of the Hon'ble Supreme Court in Ajay Kumar Choudhary Vs. Union of India (supra) and other facts pleaded by the applicant, and pass appropriate orders within a period of four weeks from the date of receipt of a certified copy of this order. It is needless to mention that if no charge sheet in the criminal case and charge memo in the departmental proceedings are filed within 90 days from the date of initial suspension, the directive issued by the Supreme Court needs to be followed. If any difficulty is felt in reinstating the applicant in the same post, the option given by the Supreme Court, to transfer him to any other

position or place can also be considered. There shall be no order as to costs.

(Pradeep Kumar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/Mbt/