

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION No. 170/00806/2016
DATED THIS THE 04TH DAY OF DECEMBER, 2017

HON'BLE SHRI DR. K.B. SURESH, MEMBER (J)
HON'BLE SMT B. BHAMATHI, MEMBER (A)

M.K.Someshi,
S/o K.B.Someshi,
Aged: 49 years,
Working as superintendent of Service Tax,
Service Tax Commissionerate
JTMC/BMTC, Domalur,
Bangalore – 560 070.

... Applicant

(By Advocate Shri Ranganatha S. Jois)

Vs.

1. The Union of India,
Represented by its Secretary,
Ministry of Finance,
Department of Revenue,
North Block, New Delhi – 110 001.

2. The Chief Commissioner,
Central excise,
Bangalore Zone,
P.B. No.544, C.R. Building,
Queens Road, Bangalore – 560 001.

3. The Commissioner of Service Tax,
Service tax, Audit,
JTMC/BMTC,
Domalur, Bangalore – 560 070.

... Respondents

(By Shri J. Bhaskar Reddy, Senior Central Government Counsel)

ORDER (ORAL)

DR. K.B. SURESH, MEMBER (J):

We had a detailed discussion at the bar. At this point of time, Shri J. Bhaskar Reddy, learned counsel for the respondents, would submit that they will reconsider the issue once again. We are not expressing any opinion on the issues involved but then the respondents should consider these points also:

1) If the applicant is not a Bond Officer, then for warehousing duties and its lacunae how can he be held responsible?

2) If under Section 48 an action is possible how it was not averted to

3) If the best judgment assessment is correct, then why was it that the importer felt it not to be commercially viable.

2. All these aspects to be taken into account. Therefore this reconsideration is allowed as prayed by the respondents. At this point of time the learned counsel for the applicant submits that there is a question of discrimination also. Similar cases also have been brought forth in it and it had ended in exoneration of the concerned officials. That also may be considered.

The applicant is allowed to file representation indicating all these points also. The learned counsel for the respondents seeks two months' time. We will grant him three months' time. The OA is disposed off. The learned counsel for the respondents wants a clarification whether the matter had been remitted back to the Disciplinary Authority. The answer is yes. The matter is remitted back to the Disciplinary Authority. To enable him to reconsider, the order passed by the Disciplinary Authority and all its consequences are quashed for the time being.

3. The OA is disposed off. No order as to costs.

(B. BHAMATHI)
MEMBER (A)

(DR. K.B. SURESH)
MEMBER (J)

/ksk/

Annexures referred to by the applicant in OA No.170/00806/2016

Annexure A1: Copy of Articles of Charges dated 13.12.2010
Annexure A2: Copy of the reply to the Articles of Charge dated 20.01.2011
Annexure A3: Copy of the Inquiry Officer Report along with letter C.No.II/10-A/2010 Vig dated 8.11.2013
Annexure A4: Copy of the order C.No.II/10-A/02/2010 Vig.Pt.File96/14 dated 23.01.2014
Annexure A5: Copy of the Appellate Authority order C.No.II/26/01/2014 dated 09.07.2014.
Annexure A6: Copy of the letter F.No.C-16012/30/2014-Ad.V dated 20.08.2015
Annexure A7: Copy of the letter C.No.II/26/01/2014 ST Audit Vig. dated 10.11.2015.
Annexure A8: Copy of letter of the applicant dated 12.11.2015 addressed to The Commissioner, ST Audit Commissionerate, Bengaluru
Annexure A9: Copy of letter C.No.II/26/01/2014 ST Audit Vig dated 17.11.2015
Annexure A10: Copy of letter C.No.II/26/01/2014 ST AUD(Vig.) dated 08.02.2016
Annexure A11: Copy of the Appeal filed by the Applicant
Annexure A12: Copy of the order No.C.No.II/26/01/2014 CC C.EX (BZ) dated 01.06.2016
Annexure A13: Copy of the order C.No.II/10A/03/2010-CIU dated 12.01.2016.

Annexures with reply statement:

Nil
