

**CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.**

O.A.210/00508/2017

Date of decision : August 21, 2017

**Coram: Hon'ble Dr.Mrutyunjay Sarangi, Member (A)
Hon'ble Shri Arvind J. Rohee, Member (J).**

Shri Yeshwant U. Chavan,
working as Commissioner of
Income Tax (Appeals)-13, Mumbai.
Residing at Flat No.A-10, I.T.
Colony, Pedder Road,
Mumbai - 400 026. .. Applicant.

(By Advocate Shri S.V. Marne).

Versus

1. Union of India, through
the Secretary,
Ministry of Finance,
Department of Revenue,
North Block,
New Delhi - 110 001.
2. The Chairman,
Central Board of Direct
Taxes, North Block,
New Delhi - 110 001. .. Respondents.

Order (Oral)
Per : Dr.Mrutyunjay Sarangi, Member (A)

Today when the matter was called out for admission, heard Shri S.V. Marne, learned counsel for the applicant.

2. The applicant has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 for seeking the following reliefs:-

"a. This Hon'ble Tribunal may graciously be pleased to call for the records of the case from the

Respondents and after examining the same quash and set aside the order dated 16.08.2017 only to extent that it seeks to transfer the Applicant from Mumbai to Chennai and direct the Respondents to grant retention to the Applicant at Mumbai on his promotion to the post of Principal Commissioner of Income Tax.

b. Costs of the application be provided for.

c. Any other and further order as this Hon'ble Tribunal deems fit in the nature and circumstances of the case be passed."

3. The applicant works as Commissioner of Income Tax under Respondent No.2 at Mumbai. He has been promoted vide order dated 16.08.2017 to the post of Principal Commissioner of Income Tax. By the same order he has been transferred to Chennai as PCIT-5. Shri S.V. Marne, learned counsel for the applicant submits that the applicant's wife is suffering from Stage IV metastatic lung Cancer. He has given history of the patient. He has also enclosed a medical certificate dated 19.08.2017 from the Consultant Onco-Surgeon from the Asian Cancer Institute certifying that she has an advanced disease and she is being treated with extensive continuous palliative care. The applicant also submits that his mother who is dependent on him suffers from bleeding inside the skull which needs urgent surgery.

4. The applicant has prayed for interim relief

by way of direction to the respondents staying his transfer. After hearing the learned counsel for the applicant and perusing the documents attached to the O.A., we are of the considered view that the present critical condition of the applicant's wife and mother warrants a stay on the applicant's transfer so that the applicant can stay and take care of his family.

5. The applicant has submitted a representation citing all the above reasons to pray for his continuation in Mumbai. The respondent No.2 to whom the representation has been submitted on 17.08.2017 is directed to consider his representation and pass necessary orders within a period of four weeks from today. The order of transferring the applicant to Chennai is hereby stayed pending consideration of the representation. The applicant is also given a liberty to approach the appropriate judicial forum after the decision is taken on his representation and for that purpose the transfer of the applicant, if ordered, will not be given effect to for two weeks from the date of orders on the representation.

6. The O.A. stands disposed off with the above directions.

(Arvind J. Rohee)
Member (J)

(Dr. Mrutyunjay Sarangi)
Member (A) .

H.

