

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

1. Review Application No.200/00007/2019

(in OA 200/01007/2016)

2. Review Application No.200/00009/2019

(in OA 200/00111/2017)

3. Review Application No.200/00012/2019

(in OA 200/00872/2016)

4. Review Application No.200/00014/2019

(in OA 200/00961/2016)

5. Review Application No.200/00017/2019

(in OA 200/00849/2016)

Jabalpur, this Friday, the 03rd day of May, 2019

HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER

1. Union of India through its Secretary, Ministry of Finance, Department of Revenue, New Delhi (110001).
2. The Chairmen, Central Board of Excise and Customs, North Block, New Delhi (110001).
3. The Secretary, Ministry of Personnel, Public Grievance & Pension, New Delhi (110001).
4. The Principal Chief Controller of Accounts, Central Board of Excise & Customs, AGCR Building, 1st Floor, New Delhi – 110002.
5. The Principal Chief Commissioner, Central Excise & Customs, Bhopal Zone, 48 Administrative Area, Hoshangabad Road, Bhopal (M.P) 462011.
6. The Pay & Accounts Officer, Central Excise and Customs, Block No.2, Paryawas Bhawan, Bhopal (M.P) 462011

-Common Applicants in all the RAs

7. The Pay & Accounts Officer, Central Excise and Customs, Manikbagh Palace, Indore (M.P.) 452010

**-Applicant No.7 in RA 200/00009/2019,
200/00014/2019 & RA 200/00017/2019**

V e r s u s

Rajesh Kumar Kashiv, S/o Prem Narayan Kashiv, Assistant Commissioner, Central Excise and Custom's, R/o G-308, Sanjeevni Nagar, Jabalpur - 482002

- Respondent in RA 200/00007/2019

R.S.P. Gupta, S/o Late V.P. Gupta, Assistant Commissioner, Central Excise and Customs's, R/o Opposite Jyoti School, Kailspuri Mathpara, Raipur (C.G) 492001

- Respondent in RA 200/00009/2019

1. J.K. Nayak, S/o Shri N.P. Nayak, Assistant Commissioner, Central Excise & Customs, R/o G-111A, Rameshwaram Colony, MR-4 Road, Ukhri Vivekanand Ward, Jabalpur (M.P) 482002.

2. Smt. Vanishree Damodaran Gautam, D/o Shri P. Damodaram, Assistant Commissioner, Central Excise & Customs, R/o Infront of Bade Ganpati, Kakhedi Road, Neelbad Bhadbhada Road, Bhopal 462061.

3. Shankerlal Khemchandani, S/o Shri G.M Khemchandani, Assistant Commissioner, Central Excise & Customs, Amrapali Enclave, Chunnabhati, Bhopal 462016

- Respondents in RA 200/00012/2019

1. Ramesh R. Rahate, S/o Shri Ramkrishna B. Rahate, Assistant Commissioner, Central Excise and Custom's, R/o-283-A, Suryadev Nagar, Near Hawa Bunglaw, Indore – 452009.

2. Mohd. Moonis, S/o Mohd. Zaki Asghar, Assistant Commissioner, Central Excise and Customs, R/o 108, Ashoka Colony, Behind Digamber School, Manik Bagh Road, Indore – 452014.

3. Harsh Vardhan Sharma, S/o Shri Vedant Sharma, Assistant Commissioner, Central Excise and Customs, R/o- 114, Lokmanya Nagar, Keshar Bagh Road, Indore – 452009.

-Respondents in RA 200/00014/2019

1. R.K. Vidyarthi, S/o Late Shri R.C. Vidyarthi, Assistant Commissioner, Central Excise and Custom's, R/o C-3, Tirupathi Enclave, Priyadarshini Nagar, Phase-1 Bhel Sangam, Bag Seonia, Hoshangabad Road, Bhopal 462023.
2. R.M. Mishra, S/o Late Shri Shiv Dutt Mishra, Assistant Commissioner, Central Excise and Customs, R/o 104, Ekta Apartment, Vishnupuri, Indore 452010.
3. Rita Joshi, D/o Late Shri N.D. Shukla, Assistant Commissioner, Central Excise & Customs, R/o-E-3/243, Arera Colony, Bhopal – 462016 (M.P.).
4. Devendra Saxena, S/o Late Shri V.C. Saxena, Assistant Commissioner, Central Excise & Customs, R/o-Gokal Vallabh, 33, Chhatrapati Shivaji Colony, Chunabhatti, Bhopal – 462016.
5. T.F. Toppo, S/o (Late) Shri Francis Toppo, Assistant Commissioner, Central Excise & Customs, R/o-30, Rachna Vihar, Awadhpuuri, Khajurikala, Bhopal – 462024.
6. Uday Kumar Banerjee, S/o Shri Krishna Kamal Banerji, Assistant Commissioner, Central Excise and Customs, R/o-157-A, Tulsi Nagar, Nipania, Indore – 452010.

-Respondents in RA 200/00017/2019

O R D E R (in circulation)
By Ramesh Singh Thakur, JM.

These Review Applications have been filed by the applicants to review the common order dated 20.09.2018 passed by the Tribunal in Original Applications Nos.200/00849/2016, 200/00872/2016, 200/00961/2016, 200/01007/2016 and 200/00111/2017. Since the above Original Applications were decided by way of common order, hence, all the Review

Applications filed against the original orders, are taken up together and are being decided by a common order.

2. From perusal of the order under review it is found that the aforesaid Original Applications were allowed after hearing the learned counsel of both sides and after perusal of the pleadings of the respective parties.

3. In the garb of the present Review Applications, the applicants are seeking rehearing of the Original Applications by raising new grounds, which were not agitated at the time of final hearing and the same is not permissible.

4. We may note that scope of review under the provisions of Order 47 Rule 1, CPC, which provision is analogous to Section 22 (3) (f) of Administrative Tribunals Act, 1985, as held by the Hon'ble Supreme Court is very limited. Hon'ble Supreme Court in 1995 (1) SCC 170 **Meera Bhanja (Smt.) Vs. Nirmala Kumari Choudhury (Smt.)** referring to certain earlier judgments, observed that an error apparent on the face of record must be such an error which must strike one on mere looking at the record. An error which has to be established by a long-drawn process of reasoning on points where there may conceivably be two opinions can hardly

be said to be an error apparent on the face of the record. Where an alleged error is far from self-evident and if it can be established, it has to be established by lengthy and complicated arguments, such an error can not be cured in a review proceeding.

5. The power of review available to this Tribunal is the same as has been given to a Court under Section 114 read with Order 47 Rule 1 of the Civil Procedure Code. The apex court has clearly stated in **Ajit Kumar Rath Vs. State of Orissa and others**, (1999) 9 SCC 596 that: “a review cannot be claimed or asked for merely for a fresh hearing or arguments or correction of an erroneous view taken earlier, that is to say, the power of review can be exercised only for correction of a patent error of law or fact which stares in the face without any elaborate argument being needed for establishing it”. This Tribunal can not review its order unless the error is plain and apparent. It has clearly been further held by the apex court in the said case that: “[A]ny other attempt, except an attempt to correct an apparent error or an attempt not based on any ground set out in Order 47, would amount to an abuse of the liberty given to the Tribunal under the Act to review its judgment”.

6. It is also settled principle of law that the Tribunal cannot act as an appellate court for reviewing the original order. This

proposition of law is supported by the decision of the Hon'ble Supreme Court in the case of **Union of India Vs. Tarit Ranjan Das**, 2004 SCC (L&S) 160 wherein their lordships have held as under:

“The scope for review is rather limited and it is not permissible for the forum hearing the review application to act as an appellate authority in respect of the original order by a fresh order and *rehearing of the matter to facilitate a change of opinion on merits*. The Tribunal seems to have transgressed its jurisdiction in dealing with the review petition as if it was hearing an original application”.

7. Hon'ble Supreme Court in the matters of **State of West Bengal and others Vs. Kamal Sengupta and another**, (2008)2 SCC (L&S) 735 scanned various earlier judgments and summarized the principle laid down therein, which reads thus:

“35. The principles which can be culled out from the above-noted judgments are:

(i) The power of the Tribunal to review its order/decision under Section 22(3)(f) of the Act is akin/ analogous to the power of a civil court under Section 114 read with Order 47 Rule 1 CPC.

(ii) The Tribunal can review its decision on either of the grounds enumerated in Order 47 Rule 1 CPC.

(iii) The expression “any other sufficient reason” appearing in Order 47 Rule 1 has to be interpreted in the light of other specified grounds.

(iv) An error which is not self-evident and which can be discovered by a long process of reasoning, cannot be treated as an error apparent on the face of record justifying exercise of power under Section 22(3)(f).

(v) An erroneous order/ decision cannot be corrected in the guise of exercise of power of review.

(vi) A decision/order cannot be reviewed under Section 22(3)(f) on the basis of subsequent decision/judgment of a coordinate or larger Bench of the tribunal or of a superior court.

(vii) While considering an application for review, the tribunal must confine its adjudication with reference to material which was available at the time of initial decision. The happening of some subsequent event or development cannot be taken note of for declaring the initial order/decision as vitiated by an error apparent.

(viii) Mere discovery of new or important matter or evidence is not sufficient ground for review. The party seeking review has also to show that such matter or evidence was not within its knowledge and even after the exercise of due diligence, the same could not be produced before the court/tribunal earlier.”

8. We are, therefore, of the considered view that the law noticed hereinabove is squarely applicable in the present case and since no error apparent on the face of record has been pointed out or established, the present Review Applications are misconceived and is liable to be dismissed.

9. In the result, the Review Applications are dismissed at the circulation stage itself.

(Ramesh Singh Thakur)
Judicial Member

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(Navin Tandon)
Administrative Member