

**Central Administrative Tribunal
Madras Bench**

OA 310/01658/2018

Dated Wednesday the 19th day of December Two Thousand Eighteen

P R E S E N T

**Hon'ble Mr. R.Ramanujam, Member(A)
&
Hon'ble Mr. P. Madhavan, Member (J)**

S. Chandrasekar
2nd Street, Vasantham Colony
Anna Nagar, Chennai 600 040.

.. Applicant

By Advocate **M/s. Menon, Karthik, Mukundan and Neelakantan**

Vs.

1. Union of India, rep. by
The Chairman, Central Board of Indirect Taxes and Customs
North Block, New Delhi.

2. The Secretary
Department of Expenditure
Ministry of Finance
North Block, New Delhi.

3. The Commissioner of Customs
Chennai – VIII Commissionerate
Custom House, No. 60, Rajaji Salai
Chennai 600 001.

.. Respondents

ORAL ORDER

Pronounced by Hon'ble Mr. R. Ramanujam, Member(A)

Heard. The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief:

“To set aside the order No. F. No. S. Misc.87/2017-Accts. (Gaz) dated 30.10.2017 issued by the 3rd respondent and consequently direct the respondents to refund the recoveries made from the DCRG benefits of the applicant to the tune of Rs. 5,41,870/- along with interest at 8.34% (applicable to senior citizens saving scheme) and pass such further or other orders”

2. It is submitted that an amount of Rs. 5,41,870/- was recovered from the applicant in alleged violation of the standing instructions on the subject. Out of this amount, the respondents subsequently admitted that an amount of Rs. 1,08,431/- was deducted in excess and accordingly refunded the same to the applicant. The applicant, however, is not satisfied with the reply of the respondents in this regard dated 28.08.2018 (Annexure A6).

3. Learned counsel for the applicant alleges that the applicant is fully covered by the order of the Hon'ble Apex Court in the case of State of Punjab Vs. Rafiq Masih (White Washer) and others (2015 4 SCC 334) as he came under the category of an employee who was due to retire within one year of the date of order for recovery as also in the category where an excess payment had been made for a period in excess of five years. However, the respondents instead of dealing with the matter in accordance with DOPT OM dated 02.03.2016 have tried to explain

the recovery in Annexure A6 communication partially admitting to excessive recovery. The applicant has made further representations in this regard dated 10.09.2018 and 27.09.2018 which had not been replied to by the respondents. Hence this OA.

4. We have considered the matter at the admission stage. As there is no evidence of the case having been dealt with in terms of the DOPT OM No. F.No.18/03/2015-Estt. (Pay-I) dated 02.03.2016 and in accordance with law laid down by Hon'ble Apex Court in the aforesaid case, we are of the view that the respondents could be directed to pass a reasoned and speaking order on the claim of the applicant. Accordingly the competent authority is directed to consider the claim of the applicant as at Annexures A7 and A8 in accordance with law and pass a reasoned and speaking order within a period of two months from the date of receipt of copy of this order.

5. OA is disposed of as above.

(P. Madhavan)
Member (J)

19.12.2018

(R. Ramanujam)
Member(A)

AS