

* **HIGH COURT OF DELHI : NEW DELHI**

+ **Writ Petition (Civil) No. 6499 of 2008**

Judgment reserved on: September 24, 2008

% Judgment delivered on: November 03, 2008

Homi Rajvansh, IRS
Commissioner of Income Tax
C-93, 2nd Floor
Greater Kailash-I
New Delhi – 110 048

...Petitioner

Through Mr. Aman Lekhi, Sr. Advocate with
Mr. Ajit Singh, Advocate

Versus

1. Union of India
through Secretary, Department of Revenue
Ministry of Finance
North Block, New Delhi-110001
 2. Central Board of Direct Taxes
through its Chairman
Ministry of Finance
North Block, New Delhi-110001
 3. National Agricultural Coop. Marketing Federation of India Ltd.
NAFED House, Ashram Chowk
Siddharth Enclave, New Delhi-110014
 4. The Secretary
Central Vigilance Commission
Satarkata Bhawan
Near INA Market, New Delhi
- ...Respondents

Through Mr. H.K. Gangwani, Advocate

Coram:

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE SURESH KAIT

1. Whether the Reporters of local papers may be allowed to see the judgment? Yes
2. To be referred to Reporter or not? Yes
3. Whether the judgment should be reported in the Digest? Yes

MADAN B. LOKUR, J.

The Petitioner is aggrieved by an order dated 1st April, 2008 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in OA No.1914 of 2007.

2. At the outset, it is necessary to note that the Petitioner has challenged a charge sheet issued to him by his principal employer, that is, Respondent No.2 – the Central Board of Direct Taxes (CBDT).

3. The Petitioner was on deputation with Respondent No.3 (NAFED) and it seems that he was not able to get along with the concerned authorities in NAFED and sought his repatriation back to the parent department. However, NAFED had intended to initiate

disciplinary proceedings against the Petitioner and had even sought the advice of the Central Vigilance Commission in this regard. Accordingly, he was not being repatriated to his parent department.

4. Since the Petitioner was not being repatriated, he filed a writ petition in this Court being Writ Petition (C) No.9137 of 2006 seeking repatriation and that writ petition is pending disposal. NAFED subsequently repatriated the Petitioner back to his parent department and appears to have informed the parent department about the conduct of the Petitioner. On an overall consideration of the matter, the CBDT issued a memorandum of charges to the Petitioner on 22nd December, 2006. Along with the charge sheet, the Petitioner was also served the opinion dated 17th May, 2006 expressed by the Central Vigilance Commission.

5. The Petitioner challenged the charge sheet issued to him before the Tribunal and it appears that the principal submission made was that since the proceedings were initiated on the advice given by the Central Vigilance Commission addressed to NAFED, this could not have validly conferred jurisdiction on the CBDT to initiate departmental

proceedings. This contention was rejected by the Tribunal and has not been canvassed before us. It was also contended before the Tribunal that the charge sheet was issued for mala fide reasons and that the Petitioner had made serious allegations of mala fides against the officers of NAFED but the Tribunal considered the allegations to be “suggestive” and did not find adequate reason to interfere with the charge sheet. The Tribunal also noted that the Supreme Court has categorically expressed the view that when a charge sheet is issued to an employee, the departmental proceedings ought to continue and should not be interdicted unless there are very good reasons to do so.

6. Learned counsel for the Petitioner obviously could not challenge the view expressed by the Supreme Court in ***Union of India & Ors. V. Upender Singh, (1994) 3 SCC 357*** and ***Air India Ltd. v. M. Yogeshwar Raj, 2000 SCC (L&S) 710***. The sum and substance of these decisions is that if a charge sheet is issued without jurisdiction or if it is otherwise illegal or has been issued for mala fide reasons, then the Tribunal or the Court can interdict the departmental proceedings. Interference by the Tribunal or by the Court should be in rare but clear cases of want of jurisdiction or illegality or mala fides.

7. Learned counsel for the Petitioner relied upon *State of Punjab v. V.K. Khanna, 2000 (7) SCALE 731* to contend that since the charge sheet was issued for mala fide reasons, the Court can certainly interdict the departmental proceedings. There is no doubt about this proposition but unfortunately it does not apply to the facts of the present case.

8. According to learned counsel for the Petitioner, the mala fides are attributable to NAFED and its authorities. There is nothing to suggest, nor has it been argued before us, that anyone in the CBDT acted in a mala fide manner against the Petitioner. Under these circumstances, it is very difficult for us to hold that because the officers of NAFED had acted in a mala fide manner and had allegedly harassed and victimized the Petitioner, for that reason the CBDT could not issue a charge sheet to the Petitioner. Since allegations of mala fides have not been made against the CBDT, we cannot transpose the allegations of mala fides made against the officers of NAFED (even if the allegations are substantiated) to set aside the charge sheet issued by the CBDT. The contention of learned counsel for the Petitioner is, in our opinion, wide off the mark. There is nothing to suggest that there was no application

of mind by the CBDT before issuing the charge sheet to the Petitioner, and indeed, no such argument was advanced by learned counsel.

9. We do not find any merit in the writ petition and it is, accordingly, dismissed. No costs.

MADAN B. LOKUR, J

November 03, 2008
ncg

SURESH KAIT, J

Certified that the corrected copy of the judgment has been transmitted in the main Server.