THE HON'BLE SRI JUSTICE SANJAY KUMAR

AND

THE HON'BLE SRI JUSTICE N.BALAYOGI

<u>WRIT PETITION No. 4127 OF 2017</u>

<u>ORDER</u>: (*per Hon'be Sri Justice Sanjay Kumar*)

The Union of India and the Central Board of Direct Taxes are aggrieved by the order dated 16-06-2015 passed by the Central Administrative Tribunal, Hyderabad Bench, Hyderabad (for short, 'the Tribunal'), in O.A.No. 717 of 2012. The said O.A. was filed by respondent No. 1 herein assailing the minutes of the Review Departmental Promotion Committee Meeting held on 24-01-2012 and seeking a consequential direction to the authorities to consider the upward revision of the annual confidential report done pursuant to the earlier order dated 09-08-2011 passed in O.A.No. 365 of 2011 and to promote him as the Chief Commissioner of Income Tax on and from the date on which the recommendations of the Departmental Promotion Committee held in May, 2011, were acted upon.

By the order under challenge, the Tribunal took note of the fact that respondent No. 1 had already retired from service on attaining the age of superannuation on 31-03-2012 and directed the authorities to independently consider whether he could be promoted as Chief Commissioner of Income Tax for the panel year 2011-12 in view of the up-gradation of his annual confidential report for 2007-08 by the competent authority. Significantly, the proceedings of the Review Departmental Promotion Committee Meeting held on 24-01-2012 was set aside by the Tribunal. Perusal of the said proceedings reflects that the Review Departmental Promotion Committee practically sat in an appeal over the up-gradation of the annual confidential report of respondent No. 1. The committee took the view that the final grading given to him for the year 2007-08 would not justify up-gradation. This was not within the ambit of the Departmental Promotion Committee. Once the annual confidential report of respondent No. 1 was upgraded in terms of the earlier order passed by the Tribunal, the Departmental Promotion Committee could not officiate as a self-appointed appellate authority against such up-gradation. We therefore find no reason to interfere with the setting aside of the proceedings of this Review Departmental Promotion Committee Meeting held on 24-01-2012. In consequence, the candidature of respondent No. 1 for promotion for the panel year 2011-12 necessarily has to be undertaken afresh as directed by the Tribunal.

We therefore find no merit in this Writ Petition which is accordingly dismissed. Pending miscellaneous petitions, if any, shall stand dismissed in the light of this final order. No order as to costs.

SANJAY KUMAR, J.

N. BALAYOGI, J.

28th February, 2017.
JSK