
(2025) 01 CAT CK 1565

In the Central Administrative Tribunal, Cuttack Bench, Cuttack

Case No : Review Application No. 260, 0005 Of 2019 (Arising Out Of Original Application 260, 00524 Of 2011 Disposed Of On 26.09.2017)

Gautam Kumar Das

APPELLANT

Vs

Union Of India & Ors.

RESPONDENT

Date of Decision : 27-01-2025

Acts Referred:

Central Administrative Tribunal (Procedure) Rules, 1987 — Rule 17
Central Administrative Tribunal (Procedure) Rules, 1986 — Rule 17
Code Of Civil Procedure, 1908 — Order 47 Rule 1
Constitution Of India, 1950 — Article 226

Citation : (2025) 01 CAT CK 1565

Hon'ble Judges : Sudhi Ranjan Mishra, Member (J); Pramod Kumar Das, Member (A)

Bench : Division Bench

Advocate : P.C. Sethi, J.K. Nayak

Final Decision : Dismissed

Judgement

Sudhi Ranjan Mishra, Member (J)

1. Through this RA, filed on 10.11.2017, the Applicant, Sri Goutam Kumar Das, has sought to admit the impugned OA which was dismissed on merit and contest on 26th September, 2017, in the interest of equity and justice. The Respondents filed counter contesting the maintainability of this RA both on facts and law. Applicant has also filed rejoinder reiterating his case taken in the OA.

2. Heard learned counsel for both sides and perused the records.

3. The Rule 17 of CAT (Procedure) Rules, 1987 is clear to the effect that an application of Review is to be filed within a period of thirty days from the date of receipt of a copy of this order; whereas, the present Review Application has been filed after more than thirty days as evident from record; because the order against which this RA has been filed is dated 26th September, 2017 and this RA is filed on 10.11.2017. No separate application has been filed seeking

condonation of delay and on the other hand the applicant in paragraph 6 of the RA has stated that this RA is well within time as provided under Rule 17 of CAT (Procedure) Rules, 1986 which is not correct, as per record.

4. It is needless to state that under Order 47 Rule 1 CPC, a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error, which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be "reheard and corrected". In a review petition, it must be remembered, has a limited purpose and cannot be allowed to be "an appeal in disguise". The above observation is fortified by the decision of the Hon'ble Apex Court in the case of State of West Bengal v. Kamal Sengupta, (2008) 8 SCC 612, wherein the Hon'ble Apex Court had an occasion to consider what can be said to be "mistake or error apparent on the face of record" and the Hon'ble Apex Court observed and held as under:

"22. The term "mistake or error apparent" by its very connotation signifies an error which is evident per se from the record of the case and does not require detailed examination, scrutiny and elucidation either of the facts or the legal position. If an error is not self-evident and detection thereof requires long debate and process of reasoning, it cannot be treated as an error apparent on the face of the record for the purpose of Order 47 Rule 1 CPC or Section 22(3)(f) of the Act. To put it differently an order or decision or judgment cannot be corrected merely because it is erroneous in law or on the ground that a different view could have been taken by the court/tribunal on a point of fact or law. In any case, while exercising the power of review, the court/tribunal concerned cannot sit in appeal over its judgment/decision."

6. We find that the prayer of the applicant in this RA is to admit the impugned OA in the interest of equity and justice. In the pleadings (RA & rejoinder), the Applicant has made all endeavour to make out his case on merit by reiterating his old obsolete submission, even after taking those submissions this Bench had dismissed the OA, without pointing any error apparent on the face of record committed by the Tribunal in the final order. Thus, after considering the arguments and going through the pleadings, we are of the considered view that this RA does not come within the ingredients fixed under Order 47 Rule 1 of CPC for exercising the power of review rather, the Applicant has made another effort to rehear the OA on merit once again. We are reminded by the decision of the Hon'ble Apex Court in the case of Supertech Ltd. Vs. Emerald Court Owner Resident Welfare Association and Ors, (2024) 1 SCC (L&S) 819 wherein the Hon'ble Apex Court has been pleased to hold as under:

"12. The hallmark of a judicial pronouncement is its stability and finality. Judicial verdicts are not like sand dunes which are subject to the vagaries of wind and weather⁶. A disturbing trend has emerged in this court of repeated applications,

styled as Miscellaneous Applications, being filed after a final judgment has been pronounced. Such a practice has no legal foundation and must be firmly discouraged. It reduces litigation to a gambit. Miscellaneous Applications are becoming a preferred course to those with resources to pursue strategies to avoid compliance with judicial decisions. A judicial pronouncement cannot be subject to modification once the judgment has been pronounced, by filing a miscellaneous application. Filing of a miscellaneous application seeking modification/clarification of a judgment is not envisaged in law. Further, it is a settled legal principle that one cannot do indirectly what one cannot do directly [“Quando aliquid prohibetur ex directo, prohibetur et per obliquum”].

13 Further, there is another legal principle which is applicable in the present case. It is that where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all and that other methods of performance are necessarily forbidden. Hence, when a statute requires a particular thing to be done in a particular manner, it must be done in that manner or not at all and other methods of performance are necessarily forbidden. This Court too, has adopted this maxim. This rule provides that an expressly laid down mode of doing something necessarily implies a prohibition on doing it in any other way.”

7. Further, law is well settled in the case of Aribam Tuleshwar Sharma Vs Aribam Pishak Sharma and Ors., (1979) 4 SCC 389 that:

“We are afraid that neither of the reasons mentioned by the learned Judicial Commissioner constitute a ground for review. It is true as observed by this Court in Shivdev Singh and Ors. v. State of Punjab and Ors. AIR 1963 SC 1909 there is nothing in Article 226 of the Constitution preclude a High Court from exercising the power of review which inherent in every Court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are definitive limits to the exercise of power of review. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a Court of appeal. A power of review is not to be confused with appellate power which may enable an Appellate Court to correct all manner of errors committed by the Subordinate Court.”

8. Thus, on examination of the facts of the case with reference to the provisions of Rules and law discussed above, we do not have any iota of doubt in our mind that this RA suffers from law of limitation so also on merit. Hence, the RA is dismissed. No costs.