

BEFORE THE APPELLATE AUTHORITY

(Constituted Under the Chartered Accountants Act, 1949)

S.No.	Name of Appeal	Appeal No	Appellant/ Respondents
1.	Anil Kumar Aggarwal Vs. Institute of Chartered Accountants of India and others	12/ICAI/2017	...Appellant ...Respondents
2.	Radhey Shyam Bansal Vs. Institute of Chartered Accountants of India and others	14/ICAI/2017Appellant Respondents

CORAM:

Hon'ble Mr. Justice S.P. Garg
Hon'ble Mr. Anand Mohan Bajaj
Hon'ble Mr. Pankaj Tyagee

Chairperson
Member
Member

PRESENT:**For the Appellant:**

Mr. Sandeep Manaktala, AR along- with Mr. Anil Kumar Aggarwal Appellant in person in Appeal No 12/ICAI/2017 and Mr. Radhey Shyam Bansal, Appellant in person, in Appeal No 14/ICAI/2017

For the Respondents:

Mr. Akshay Gupta, Advocate along-with Mr. S.V. Krishanamohan, Chief Legal Advisor, Legal Department, Mr. Bhaskar Bharadwaj, Joint Secretary, Disciplinary Directorate, Dr. Rakesh Sharma, Assistant Secretary, Legal and Ms. Aruna Sarma, Senior Executive Officer, Disciplinary Directorate appearing on behalf of ICAI in both the above Appeals.

ORDER**Date: 15.10.2019**

1. We have been informed that CA J. Venkateswarlu, one of the members of this Authority is not available for hearing the application dated 3rd October, 2019 submitted by the Institute of Chartered Accountants of India requesting extension of further period of six months for completing the entire proceedings in both the appeals. Another member Shri Praveen Garg is also not available today as he is busy in his urgent official assignment.
2. We note that both these appeals were remanded to the Board of Discipline of the Institute of Chartered Accountants of India by this Authority vide Order dated 18th October, 2018 with the directions to complete the entire proceedings within a period of six months from the date of receipt of the aforesaid order. However, the Board of Discipline could not complete the entire proceedings of both these appeals within the stipulated time for the reasons detailed in the application in hand.

3. We also note that the Appellants Anil Kumar Aggarwal and Radhey Shyam Bansal through Sandeep Manaktala, their Authorized Representative have also submitted a joint objection application dated 3rd October, 2019 (received by hand in this Authority on 11th October, 2019) for the reasons recorded therein.
4. We have heard arguments on this application from both the sides. Ld. Counsel for the respondent urged that the proceedings could not be completed within the stipulated time as the Institute wanted to have legal opinion. When the matter was referred to the concerned Advocate, he took considerable time to render his opinion. The Appellants have not been prejudiced by delay in completing the proceedings.
5. The Authorized Representative of the Appellants urged that the Institute did not comply with the directions of the Authority deliberately. The Appellants have already suffered a lot. The delay should not be condoned.
6. We have considered submissions of both the parties. Needless to say, the Institute is negligent in the compliance of the directions given by this Authority to complete the entire proceedings within a period of 6 months vide order dated 18.10.2018. The said period came to an end in April, 2018. Even thereafter, the Institute did not prefer to move any application for extension of time before this Authority at the earliest. After a delay of more than 6 months, the instant application has been filed seeking extension. Apparently, there is gross lapse on the part of the Institute in the compliance of the directions. The state of uncertainty definitely affects the Appellants and they can't be forced to wait for an indefinite period for disposal of their cases.
7. Considering the facts and circumstances of the case, and to protect the interest of both the parties, this Authority is of the view that further period of four months be given to the Institute to complete its entire proceedings on priority. The Institute is, however, burdened with penalty of Rs.50,000/- in each appeal payable to the Appellate Authority within 2 weeks from the date of receipt of this order.

8. Subject to deposit of the penalty as above, application dated 3rd October, 2019 is hereby allowed and a further period of four months' from today is granted to the Institute of Chartered Accountants of India to complete the entire proceedings in both these matters.
9. The registry is directed to place a copy of this order in all the relevant files for record.

Justice S. P. Garg
Chairperson

Anand Mohan Bajaj
Member

Pankaj Tyagee
Member