

**FORM NO – 4**

**(SEE RULE 11 (1))**

**IN THE ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOLKATA**

**ORDER SHEET**

**APPLICATION No : R A 10 of 2013 with MA 137 of 2013 (Arising out of OA 100/2012)**

APPLICANT (S)	<u>Secretary, AGI Fund, AGI Bhawan, New Delhi</u>
RESPONDENT (S)	Ex Nk Nabaghana Behera & Ors
Legal Practitioner of applicants	Legal Practitioner for Respondent/OP
Mr. Mintu Kr. Goswami	Mr. Bisekeshan Pradhan/Mr. Anup Kr. Biswas
	(Appeared in the OA )

NOTES OF THE REGISTRY	<b><u>ORDERS OF THE TRIBUNAL</u></b> Order Sl. No. : <u>1</u> Dated : <u>16 .12.2013</u>
	<p style="text-align: center;"><b><u>ORDER</u></b> <b>(In Chambers)</b></p> <p>This review application being RA 10 of 2013 along with MA 137 of 2013 praying for condonation of delay in filing the RA have been put up in chambers for consideration by way of circulation in terms of rule 18(3) of the AFT (Procedure) Rules, 2008.</p> <p>2. The RA has been filed by the respondent No. 8 of OA 100 of 2012 i.e. Secretary, AGI Fund, seeking review and recall of the directions contained in order dt. 25.9.2013 passed in the said OA so far as respondent No. 8 is concerned, on the grounds stated therein.</p> <p>3. On perusal of the averments made in the MA under reference, it appears that there was delay of 18 days in filing the instant RA beyond the statutory time limit. It is averred in the petition that copy of the order passed in the OA was sent to the respondent No. 8 at his HQ at New Delhi for necessary</p>

instructions and some time was taken for issuing proper instruction and on receipt of the same, this RA has been filed and in the process there was delay of only 18 days.

6. In the RA, it is submitted that AGI Fund is a statutory body and this Tribunal has no jurisdiction to pass any direction against the said Fund authorities. Therefore, the Tribunal has erred in issuing ibid directions at para 67(iii) and (v) upon respondent No. 8 since such directions are without jurisdiction. They have annexed certain decisions of Principal Bench to support this submission. They have also annexed a copy of decision rendered by Kochi Bench of AFT in RA 7 of 2010 decided on 17.5.11 wherein earlier some directions were issued on AGI and subsequently, on review, those directions were recalled on the ground of ouster of jurisdiction. It is, therefore, prayed by the review applicant to delete the aforesaid directions contained in para 67(iii) and (v) of the order dt. 25.9.13.

7. On perusal of the averments made in the RA and MA, we are of the view that since some decisions of Coordinate Benches have been referred to including the one rendered by Kochi Bench of AFT in a similar review petition, the instant RA and MA should be heard.

8. Accordingly, the Registry is directed to list both the RA and MA on any convenient date after giving notice to both parties.

9. Let a copy of this order be also furnished to both sides.

(LT. GEN K.P.D.SAMANTA)  
MEMBER(A)

(JUSTICE RAGHUNATH RAY)  
MEMBER(J)