FIRST APPEAL UNDER SECTION 19(1) OF THE RIGHT TO INFORMATION (RTI) ACT, 2005

To

Sh. Rajan Lachala
First Appellant Authority,
Cum Joint Commissioner,
Goods and Services Tax Commissionerate,
F-Block Rishi Nagar,
Ludhiana.

- 1. Name of Appellant:-
- 2. Father's Name of Appellant:-
- 3. Address of Appellant:-
- 4. Date of Filing of Application before 25/02/2020 PIO:-
- 5. Name and Designation of PIO:-

Hardeep Singh, Assisstant Commissioner Cum CPIO, Goods and Services tax division, Loha Bazar, Mandi Gobindgarh-147103.

6. Address to which notice may be sent to Appellant:-



Statement of Facts.

As per Annexure A

Grounds of Appeal

As per Annexure B

Relief Prayed for

As per Annexure C

Signature

Verification:- I, the appellant named above in memorandum of appeal, do hereby declare that what is stated herein is true to the best of my knowledge and belief.

Date: - 11/04/2020

Signature

Annexure 'A'

Statement of Facts

Annexure 'B'

Grounds of Appeal

- 1. That, the information sought under Point 6 of the RTI Application was not supplied. The information sought was denied without complying with the provisions of Section 11 of the RTI Act, 2005 requiring PIO to give notice of request to third party.
- 2. That, as a matter of fact, the undersigned Appellant is the Counsel of the party (M/s and holds 'Power of Attorney', thus regarding as third party for the matter of supply of information does not stand. (Proprietor

Annexure 'C'

Relief Prayed for

- 1. That the requisite information be supplied immediately.
- 2. That such other relief as is admissible in the facts of the case and in eyes of law may please be given.

Verification:- I, the appellant named above in memorandum of appeal, do hereby declare that what is stated herein is true to the best of my knowledge and belief.

Date:-11/04/2020 Signature

कार्यालय प्रधान आयुक्त



OFFICE OF THE PRINCIPAL COMMISSIONER

मालऔर सेवा कर आयुक्तालय - लुधियाना

CENTRAL GOODS AND SERVICES TAX COMMISSIONERATE-LUDHIANA

जीएसटी भवन ,फ ब्लाक, ऋषि नगर लुधियाना-141001 GST BHAWAN, F-BLOCK, RISHI NAGAR, LUDHIANA-141001 दूरभाष/Phone No. 0161-2303807, फैक्स/Fax No. 0161-2304881

ई-मेल/E-mail: gst.ludhiana@gov.in



दिनांक : 30.04.2020

Order-in-Appeal No.: 1/RTI/GST/LDH/2020-21

(An appeal against this order lies to the Central Information Commission, Block No. 5 (5th Floor), Old JNU Campus, New Delhi. This copy is issued to the individual for his/her personal use free of cost. The person feeling aggrieved with this order can file appeal to the Appellate Authority within 90 days of the receipt of this order).

Brief Facts:

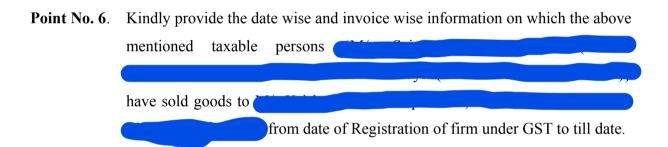
(hereinafter referred to as the "appellant") vide his RTI application dated 25.02.2020 (received on 04.03.2020) addressed to the Superintendent Central Excise Range II (Jurisdiction Officer) Public Information Officer, SCO No. 519, Sector 20A, Near Punjab & Sind Bank, GT Road Mandi Gobindgarh-147301 had desired certain information under the Right to Information Act, 2005 (hereinafter referred to as the "Act"). The RTI dated 25.02.2020 was replied by the Central Public Information Officer, Goods & Service Tax Division, Mandi Gobindgarh (hereinafter referred to as the "CPIO") through email dated 30.03.2020 vide letter File No. RTI-APP/136/2019-DIV-GST-MGG dated 30.03.2020.

2. Grounds of Appeal:

The Appellant, being not satisfied with the reply of the CPIO has filed an appeal dated 11.04.2020 through email dated 11.04.2020 (from email id: ______) on the following grounds:

- (i) That, the information sought under Point 6 of the RTI Application was not supplied. The information sought was denied without complying with the provisions of Section 11 of the RTI Act, 2005 requiring PIO to give notice of request to third party.
- (ii) That, as a matter of fact, the undersigned Appellant is the Counsel of the party (M/s and holds 'Power of Attorney', thus regarding as third party for the matter of supply of information does not stand. (Proprietor

The appellant vide his RTI dated 25.02.2020 has sought the following information under Point No. 6 as under:-



The appellant vide his appeal dated 11.04.2020 has sought the following relief from the First Appellate Authority of the RTI:

- (i) That the requisite information be supplied immediately.
- (ii) That such other relief as is admissible in the facts of the case and in eyes of law may please be given.

3. Reply to the Notice by CPIO:

The First Appellate Authority vide Notice File No. TECH-RTI0APL/11/2020-HQ-GST-LDH/I/74995/2020 dated 12.04.2020 has sought the comments from the CPIO, GST Division Mandi Gobindgarh on the appeal filed by the Appellant. The CPIO vide letter File No. RTI-APP/136/2019-DIV-GST-MGG dated 16.04.2020 has supplied the comment on the Appeal as under:-

"As already replied in the point no. 6 of the RTI dated 25/02/2020 of Sh. sent on 30/03/2020 via email that the information cannot be shared being third party information under Section 8(D) of RTI Act'2005.

However, as per Section 11 of the RTI Act, 2005, notices were already sent to the Taxpayers by Range office on 24/03/2020 via email seeking consent to share the details of sale and purchase regarding their firms were sought under RTI Act, 2005, if they are willing to share their information send their consent. No reply/consent from the Taxpayers were received either by email or in written.

Therefore, it is again submitted that in the absence of online/written consent from these Taxpayers, the information cannot be shared being third party information under Section 8(D) of RTI Act, 2005."

4. <u>Discussion and Findings</u>:

- A.1. I have carefully examined the appeal filed by the Appellant, the CPIO's reply to Notice and relevant provisions of the Act. I find that the appellant was aggrieved that the information sought under Point 6 of the RTI Application dated 25.02.2020 was not supplied and it was denied without complying with the provisions of Section 11 of the RTI Act, 2005 requiring PIO to give notice of request to third party. The appellant further submitted that he is the Counsel of the party and holds 'Power of Attorney' therefore, regarding as third party for the matter of supply of information does not stand.
- 4.2. In reply to the Notice, the CPIO has submitted that the information sought by the appellant pertains to thirty party information. The CPIO has submitted that as per Section 11 of the RTI Act, 2005, notices were sent to the Taxpayers by Range office on 24.03.2020 via email seeking consent to share the details of sale and purchase regarding their firms as sought under RTI Act, 2005 and to send their consent, if they are willing to share their information. The CPIO further submitted that no reply/consent from the Taxpayers were received either by email or in writing and in the absence of online/written consent from these Taxpayers, the

information cannot be shared being third party information under Section 8(1)(d) of the RTI Act, 2005.

4.3. The procedure for disclosing third party information by the CPIO is stated under Section 11 of the Act. The Section 11 of the Act is reproduced below:

"Section 11. (1) Where a Central Public Information Officer or a State Public Information Officer, as the case may be, intends to disclose any information or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the Central Public Information Officer or State Public Information Officer, as the case may be, intends to disclose the information or record, or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information:

Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party.

- (2) Where a notice is served by the Central Public Information Officer or State Public Information Officer, as the case may be, under sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within ten days from the date of receipt of such notice, be given the opportunity to make representation against the proposed disclosure.
- (3) Notwithstanding anything contained in section 7, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within forty days after receipt of the request under section 6, if the third party has been given an opportunity to make representation under sub-section (2), make a

decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.

- (4) A notice given under sub-section (3) shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal under section 19 against the decision."
- **4.4.** Since no reply/consent from the Taxpayers were received either by email or in writing, in the office of the CPIO, therefore, the CPIO has denied to supply the information to the applicant under Section 8(1)(d) of the Act. Section 8 of the Act exclusively provides the exemption from disclosure of information. Section 8(1) (d) is reproduced below:
- "8. (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,—----

- (d)- information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;"
- 4.5. The appellant has filed the appeal dated 11.04.2020 on the ground that he is the Counsel of the party

 and holds 'Power of Attorney', thus regarding

 Corporation as third party for the matter of supply of information does not stand. However, I observe that the appellant has not substantiated this ground (counsel & power of attorney) by submitting any documentary evidence in his support. I also find that the appellant has not mentioned such relationship (counsel & power of attorney) with the firm

 the RTI dated 25.02.2020

Further as per Para 6 of the RTI application dated 25.02.2020, I observe that the information sought is regarding goods sold (date wise and invoice wise) by

subject information is related to the consent of these Taxpayers regarding its disclosure was sought by the CPIO vide letters dated 24.03.2020. Since no reply/consent from these Taxpayers were received either by email or in writing, therefore, the CPIO has denied to supply the information under Section 8(1)(d) of the Act being third party information. The ground taken by the appellant in his appeal dated 11.04.2020 does not stand as the information sought under Para 6 of the RTI dated 25.02.2020 is related to

4.6. While going through the appeal filed by the appellant, I also find that there is no larger public interest involved in disclosing the information sought by the appellant and the information if disclosed might cause unwarranted invasion of the privacy of the individual, about whom the information is being sought by the appellant. Therefore, I hold that the decision of the CPIO in the present case is justified and holds good.

5. Order:

In view of above, I reject the appeal filed by the appellant.

(Rajan Lachala, IRS)
First Appellate Authority (RTI)
GST Commissionerate, Ludhiana.

(Through email) To



Copy to the Assistant Commissioner cum CPIO, GST Mandi Gobindgarh Digitally signed by RAJAN LACHALA

Date:Thu Apr 30 18:17:33:461, 2019 and Gobindgarh.

Reason:Approved

FIRST APPEAL UNDER SECTION 19(1) OF THE RIGHT TO INFORMATION (RTI) ACT, 2005

To

Sh. Rajan Lachala
First Appellant Authority,
Cum Joint Commissioner,
Goods and Services Tax Commissionerate,
F-Block Rishi Nagar,
Ludhiana.

- 1. Name of Appellant:-
- 2. Father's Name of Appellant:-
- 3. Address of Appellant:-



- 4. Date of Filing of Application before 27/02/2020. PIO:-
- 5. Name and Designation of PIO:-

Hardeep Singh, Assisstant Commissioner Cum CPIO, Goods and Services tax division, Loha Bazar, Mandi Gobindgarh-147103.

6. Address to which notice may be sent to Appellant:-



Statement of Facts.

As per Annexure A

Grounds of Appeal

As per Annexure B

Relief Prayed for

As per Annexure C

Signature

Verification:- I, the appellant named above in memorandum of appeal, do hereby declare that what is stated herein is true to the best of my knowledge and belief.

Date:- 15/05/2020 Signature

Annexure 'A'

Statement of Facts

The appellant has applied for the information under the Right to Information Act, 2005 for supply of information on 25/02/2020 as mentioned in the application (Application under Section 6(1) of RTI Act, 2005 is enclosed) along with deposit receipt of requisite fees. The Information was received via e-mail on 21/04/2020. The information has been tendered on the points, except Point Numbers 3, 5 & 6, where information regarding amount and date of discharge of tax liability by for the period from 01.04.2019 to till date, Information as if all the requirements/provisions of GST Act are being complied by the abovementioned taxpayers, date wise and invoice wise information on which the taxable person mentioned in other points have sold goods to vide from date of Registration of firm under GST to till date respectively. Hence the Appellant has applied for this appeal.

Annexure 'B'

Grounds of Appeal

- 1. That, the information sought under Point 3, 5 & 6 of the RTI Application was not supplied. The information sought was denied without complying with the provisions of Section 11 of the RTI Act, 2005 requiring PIO to give notice of request to third party.
- 2. That, the CPIO have failed to mention how the provisions of Section 8(1)(d) are applied in the present case, while refusing to provide information.
- 3. That, as a matter of fact, the undersigned Appellant is the Counsel of the party (M/s and holds 'Power of Attorney', thus regarding as third party for the matter of supply of information does not stand. (Proprietor

Annexure 'C'

Relief Prayed for

1. That the requisite information be supplied immediately.

2. That such other relief as is admissible in the facts of the case and in eyes of law may please be given.

Verification:- I, the appellant named above in memorandum of appeal, do hereby declare that what is stated herein is true to the best of my knowledge and belief.

Date:-15/05/2020 Signature



कार्यालय प्रधान आयक्त

OFFICE OF THE PRINCIPAL COMMISSIONER माल और सेवाकर आयुक्तालय, लुधियाना GOODS & SERVICES TAX COMMISSIONERATE, LUDHIANA जीएसटी भवन, एफ-ब्लॉक, ऋषि नगर,लुधियाना- 141001 GST BHAWAN, F-BLOCK, RISHI NAGAR, LUDHIANA- 141001 दरभाष/TELE: 0161-2679415 फैक्स/FAX: 0161-2304881;

ई-मेल/Email: tech-gstldh@gov.in gst.ludhiana@gov.in



दिनांक: 08.06.2020

Order-in-Appeal No.: 2/RTI/GST/LDH/2020-21

(An appeal against this order lies to the Central Information Commission, Block No. 5 (5th Floor), Old JNU Campus, New Delhi. This copy is issued to the individual for his/her personal use free of cost. The person feeling aggrieved with this order can file appeal to the Appellate Authority within 90 days of the receipt of this order).

Brief Facts:

(hereinafter referred to as the "appellant") vide his RTI application dated 25.02.2020 (received on 04.03.2020) addressed to the Superintendent Central Excise Range II (Jurisdiction Officer) Public Information Officer, SCO No. 519, Sector 20A, Near Punjab & Sind Bank, GT Road Mandi Gobindgarh-147301 had desired certain information under the Right to Information Act, 2005 (hereinafter referred to as the "Act"). The RTI dated 25.02.2020 was replied by the Central Public Information Officer, Goods & Service Tax Division, Mandi Gobindgarh (hereinafter referred to as the "CPIO") vide letter File No. RTI-APP/136/2019-DIV-GST-MGG dated 21.04.2020.

2. **Grounds of Appeal:**

The Appellant, being not satisfied from the reply of the CPIO has filed an appeal dated 15.05.2020 on the following grounds:

- 1. That, the information sought under Point 3, 5 & 6 of the RTI Application was not supplied. The information sought was denied without complying with the provisions of Section 11 of the RTI Act, 2005 requiring PIO to give notice of request to third party.
- 2. That, the CPIO have failed to mention how the provisions of Section 8(1)(d) are applied in the present case, while refusing to provide information.
- 3. That, as a matter of fact, the undersigned Appellant is the Counsel of the party (M/s and holds 'Power of Attorney', thus regarding as third party for the matter of supply of information does not stand. (Proprietor

The appellant vide his RTI dated 25.02.2020 has sought the following information under Para Nos. 3, 5 & 6 as under:-

- Para No. 3. Kindly provide information regarding amount and date of discharge of tax liability by under GST for period from 01.07.2019 to till date.
- Para No. 5. Kindly provide information as if all requirements/provisions of GST Act are being compiled by the above mentioned taxable person.
- Para No. 6. Kindly provide the date wise and invoice wise information on which the above mentioned taxable persons have sold goods to from date of Registration of firm under GST to till date.

The appellant vide his appeal dated 15.05.2020 has sought the following relief from the First Appellate Authority of the RTI:

- (i) That the requisite information be supplied immediately.
- (ii) That such other relief as is admissible in the facts of the case and in eyes of law may please be given.

3. Reply to the Notice by CPIO:

Comments from the CPIO, GST Division Mandi Gobindgarh were sought on the appeal filed by the Appellant. The CPIO vide letter File No. RTI-APP/136/2019-DIV-GST-MGG dated 26.05.2020 has supplied the comment on the Appeal as under:-

"The Applicant i.e. filed an RTI application dated 25.02.2020 in his individual capacity as the fact of him being the authorized counsel of party & having power of attorney was not mentioned in his RTI application dated 25.02.2020. Therefore, the information was treated as third party information as the applicant had sought information relating to another person/firm with whom the applicant had no professional or business relationship. Further, the applicant has not informed whether any larger public interest is served by the information sought by him.

It is also informed that Section 11 of RTI, Act 2005 was complied with and e-mails were sent by Range office to the concerned taxpayers on 16.04.2020 for seeking their consent to disclose the information requested by the applicant. However, no reply/consent was received."

4. <u>Discussion and Findings:</u>

A.1 I have carefully examined the appeal filed by the Appellant, the CPIO's reply to Notice and relevant provisions of the Act. I find that the Appellant is aggrieved that the information sought under Point Nos. 3, 5 & 6 of the RTI Application dated 25.02.2020 was not supplied and it was denied to be supplied without complying with the provisions of Section 11 of the RTI Act, 2005, requiring PIO to give notice of request to third party. The Appellant further submitted that the CPIO has failed to mention as to how the provisions of Section 8(1)(d) of the Act are applied in the present case, while refusing to provide information. The Appellant further submitted that he is the Counsel of the party and holds 'Power of Attorney' therefore, regarding as third party for the matter of supply of information does not stand.

4.2. In reply to the Notice, the CPIO has submitted that the applicant filed the RTI application dated 25.02.2020 in his individual capacity, as the fact of him being the authorized counsel of party & having power of attorney was not mentioned in his RTI application dated 25.02.2020. The CPIO further submitted that the information was treated as third party information as the applicant had sought information relating to another person/firm with whom the applicant had no professional or business relationship and the applicant has not informed whether any larger public interest is served by the information sought by him.

The CPIO further submitted that Section 11 of RTI, Act 2005 was complied with and e-mails were sent by Range office to the concerned taxpayers on 16.04.2020 for seeking their consent to disclose the information requested by the applicant. However, no reply/consent was received.

4.3. The procedure for disclosing third party information by the CPIO is stated under Section 11 of the Act. Section 11 of the Act is reproduced below:

"Section11. (1) Where a Central Public Information Officer or a State Public Information Officer, as the case may be, intends to disclose any information or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the Central Public Information Officer or State Public Information Officer, as the case may be, intends to disclose the information or record, or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information:

Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party.

- (2) Where a notice is served by the Central Public Information Officer or State Public Information Officer, as the case may be, under sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within ten days from the date of receipt of such notice, be given the opportunity to make representation against the proposed disclosure.
- (3) Notwithstanding anything contained in section 7, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within forty days after receipt of the request under section 6, if the third party has been given an opportunity to make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.
- (4) A notice given under sub-section (3) shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal under section 19 against the decision."
- **4.4.** Since no reply/consent from the taxpayers were received either by email or in writing, in the office of the CPIO, therefore, the CPIO has denied to supply the information to the applicant under Section 8(1)(d) of the Act. Section 8 of the Act exclusively provides the exemption from disclosure of information. Section 8(1) (d) is reproduced below:
- "8. (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,—---

(d)- information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third

party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;"

4.5. I observe that the Appellant has filed the appeal dated 15.05.2020 on the ground that he is the Counsel of the party

and holds 'Power of Attorney', thus regarding

Corporation as third party for the matter of supply of information does not stand. However, I observe that the Appellant has neither mentioned nor substantiated this ground (counsel & power of attorney of M/s

power of RTI dated 25.02.2020.

I observe that the Appellant under Para 3 of the RTI application dated 25.02.2020 has sought the information regarding amount and date of discharge of tax liability by under GST for period from 01.07.2019 to till date and under Para 5 has sought the information as to whether all requirements/provisions of GST Act are being compiled by above mentioned taxable person (1.7).

Further, the Appellant under Para 6 of the RTI application dated 25.02.2020 has sought the date-wise and invoice-wise information on which (1.7) and (2.7) and (2.7) are from date of registration of firm under GST to till date.

4.6. While going through the appeal filed by the Appellant, I also find that there is no larger public interest involved in disclosing the information sought by the Appellant and the information if disclosed might cause unwarranted invasion of the privacy of the individual, about whom the information is being sought by the Appellant. Therefore, I hold that the decision of the CPIO in the present case is justified and holds good. However, I direct the CPIO's that in future, his reply should include reasoned reply in respect of each point raised in the RTI application.

5. Order:

In view of above, I reject the appeal filed by the appellant.

Digitally signed by RAJAN LACHALA Date:Mon Jun 08 16:21:58 IST 2020 Reason: Approved

(Rajan Lachala, IRS)

First Appellate Authority (RTI)

GST Commissionerate, Ludhiana.

(Email / Speedpost)

To



Copy to the Assistant Commissioner cum CPIO, GST Division, Mandi Gobindgarh for information and necessary action.