

कार्यालय प्रधान आयुक्त
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

दूरभाष/TELE: 0161-2679426 फैक्स/FAX: 0161-2304881; ईमेल-/Email: gstldhtech@gmail.com

मि० सं०.: IV(16)Hqrs/Ldh/RTI-Appeal/██████████/18-19/3941-42

दिनांक: 19.09.2018

Order-in-Appeal No. : 15/RTI/GST/Ldh/18

(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:

Shri ██████████ Near Post Office, ██████████ (hereinafter referred to as "the appellant"), vide his RTI application dated 06.08.2018, received in the office of Central Public Information Officer (RTI), Goods & Services Tax Division ██████████ (hereinafter referred to as "the CPIO"), under the Right to Information Act, 2005 (hereinafter referred to as "the Act"), had desired certain information.

2. Grounds of Appeal:

2.1: That the CPIO has denied to provide the desired information in terms of Section 8(1)(j) of the Act.

2.2: The Appellant, being aggrieved, has filed an appeal dated 25.08.2018 (received on 27.08.2018) pleading that the information sought may be provided.

3. Reply to the Notice by CPIO:

3.1: A notice vide C.No. IV(16)Hqrs/Ldh/RTI-Appeal/██████████/15/18-19/10536 dated 29.08.2018 was issued to the CPIO to provide comments on the appeal filed by the Appellant. The CPIO vide his letter C.No. IV(16)30/Tech/██████████/2017/767 dated 11.09.2018 has replied to the notice as under:

That the information relates to personal information, the disclosure of which has no relationship to any public activity or interest, it would cause unwarranted invasion of the privacy of individual. Hence the desired information cannot be provided as per the provisions of Section

8(1)(j) of the RTI Act, 2005. No large public interest is involved. This view is also affirmed by CIC in case No.CIC/MP/A/2016/001290 dated 29.12.2016.

4. **Discussion and Findings:**

4.1: I have carefully examined the appeal filed by the Appellant, CPIO's reply to notice and relevant provisions of the Act.

4.2: I find that the appellant was aggrieved for denying the information sought.

From the perusal of RTI application, I find that the said RTI application pertains to the category of personal and third party information. Section 8(1)(j) provides:

"information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the Appellate Authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information".

The CIC in the case of A.P Singh Vs Punjab National Bank (Appeal No. 12/IC(A)/2006 dated 14.03.2006) as also in the case of Rajan Madhav (Appeal No. CIC/MP/A/2015/001240, CIC/MP/A/2015/001242 and CIC/MP/A/2015/001243) held that no disclosure of third party information is to be made in respect of a person with whom the applicant had no professional or business relationship.

The Supreme Court in ICAI vs. Shaunak H. Satya, (2011) 8 SCC 781 has held:

"This Court is also of the view that misuse of the RTI Act has to be appropriately dealt with otherwise the public would lose faith and confidence in this "sunshine Act". A beneficent Statute, when made a tool for mischief and abuse must be checked in accordance with law".

Thus the decision of the CPIO in present case is justified and holds good.

5. **Order:**

In view of above, the appeal filed by the appellant is not tenable and rejected accordingly.

19/9/18
(Parul Garg, IRS)

1st Appellate Authority (RTI)

o/c GST Commissionerate, Ludhiana.

Speed Post/copy to:-

- (i) Sh. [REDACTED], Near Post Office, [REDACTED]
- (ii) The CPIO(RTI), GST Division, [REDACTED]

The Joint Commissioner cum Appellate Auth.
O/o Principal Commissioner G.S.T.
Ludhiana

केन्द्रीय माल एवं सेवाकर आयुक्तालय
CENTRAL GST COMMISSIONERATE
लुधियाना/Ludhiana
27 AUG 2018
प्राप्ति संख्या 4762

Sub: FRIST Appeal under R.T.I. Act 2005 u/s 19

R/SIR
Dated 06-08-2018 का Postal order Number 44F432160 भेजकर Assistant
Commissioner G.S.T [redacted] से R.T.I. Act 2005 तहत अपील की जानकारी को
पी पर Assistant Commissioner [redacted] ने आपन पत्र नं: 690 (10/08/2018) से
लिख कर कोवदिया की यह जानकारी लकी दी सकरी।

R/SIR
आपका R.T.I. Act 2005 u/s 19 तहत FRIST Appeal ई की मांग/सुझाव
P.O. से भेज कर भेजी जाये Thanks

आपका सक्षि
[redacted]
[redacted] R.T.I. Activist
Nuzest office
[redacted] (Surat)
P/O [redacted]

Date
25-08-2018
94175-92432

S (RTI)
[Signature]

मासिक ... (जी. सं. १०)

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... R.T. Admit ...



कार्यालय प्रधान आयुक्त

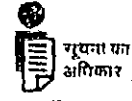
OFFICE OF THE PRINCIPAL COMMISSIONER

वस्तु एवम् सेवा कर आयुक्तालय

GST Commissionerate, Ludhiana

एफ ब्लॉक, ऋषि नगर, लुधियाना

F-Block, Rishi Nagar, Ludhiana



मि० सं०.: IV(16)Hqrs/Ldh/RTI-Appeal/[REDACTED]/18-19/3849250

दिनांक: 09.2018

13

Order-in-Appeal No. : 14/RTI/GST/Ldh/18

(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:

Shri [REDACTED], [REDACTED] (hereinafter referred to as "the appellant"), vide his RTI application dated 23.07.2018, submitted to Central Public Information Officer (RTI), Goods & Services Tax Division [REDACTED] (hereinafter referred to as "the CPIO"), under the Right to Information Act, 2005 (hereinafter referred to as "the Act"), had desired certain information.

2. Grounds of Appeal:

2.1: That the CPIO has not provided the desired information within 30 days from the date of RTI application.

2.2: The Appellant, being aggrieved, has filed an appeal dated 25.08.2018 (received on 27.08.2018) pleading that the information sought may be provided.

3. Reply to the Notice by CPIO:

3.1: A notice vide C.No. IV(16)Hqrs/Ldh/RTI-Appeal/[REDACTED]18-19/10537 dated 29.08.2018 was issued to the CPIO to provide comments on the appeal filed by the Appellant. The CPIO vide his letter C.No. II(39)RTI/MISC/[REDACTED]/2017/404 dated 10.09.2018 has replied to the notice as under:

i) That the RTI application dated 23.07.2018 was received on 03.08.2018.

ii) That reply to RTI was given to the appellant vide letter C.No. II(39)RTI/MISC. [REDACTED]/2017/375 dated 20.08.2018.

Hence, the RTI application in the present case has been duly disposed of within 30 days of the receipt of the same.

4. Discussion and Findings:

4.1: I have carefully examined the appeal filed by the Appellant, CPIO's reply to notice and relevant provisions of the Act.

4.2: I find that the appellant was aggrieved for not replying to his RTI application within the prescribed period of 30 days. I notice that Section 7 of the Act is applicable in this case and is accordingly reproduced below:

"(1) Subject to proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Information Officer, as the case may be, on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9."

The words 'receipt of the request' is of paramount significance as it clearly indicates that it is the date of receipt of the request which is to be taken into account for calculating the period of 30 days.

I observe from the documents produced before me that the RTI application was actually received on 03.08.2018 in the office of the CPIO and replied by him on 20.08.2018 i.e. well within the stipulated period.

I endorse the decision of CPIO of not disclosing the information as it falls under Section 8(1)(j) of the Act.

5. Order:

In view of above, the appeal filed by the appellant is not tenable and rejected accordingly.

B 13/9/18
O/C
(Parul Garg, IRS)
1st Appellate Authority (RTI)
GST Commissionerate, Ludhiana.

Speed Post/copy to:-

- (i) Sh. [REDACTED]
- (ii) The CPIO(RTI), GST Division, [REDACTED]

केन्द्रीय माल एवं सेवाकर आयुक्तालय
CENTRAL GST COMMISSIONERATE
लुधियाना/Ludhiana
27 AUG 2018
प्राप्ति संख्या.....4761.....

3.

The FRist Appellate Auth
o/o Principal Commissioner (GST)
Bachhaura

Sub: FRist Appeal under R.T.I. Act 2005 u/s 19

R/sir

दो. 08-08-2018 को Asst. Commissioner GST [redacted] को postal order no
44F 482128 को कर R.T.I. Act 2005 नक़्त 5 को की जानकारी मांगी थी
पर 30 दिन से ज्यादा समय बीत जाने पर भी मांगी जानकारी नहीं मिली।

R/sir

आपको R.T.I. Act 2005 u/s 19 नक़्त FRist Appeal के की मांगी जानकारी
P.O. से बक़्त की जाये Thanks

आदर सहित
[redacted]

Date 25-08-2018

[redacted] R.T.I. Act u/s 7
Nak Post office
[redacted] MANDI [redacted]

Punjab

S(RTI)
[Signature]



कार्यालय प्रधान आयुक्त
OFFICE OF THE PRINCIPAL COMMISSIONER
वस्तु एवम् सेवा कर आयुक्तालय
GST Commissionerate, Ludhiana
एफ ब्लॉक, ऋषि नगर, लुधियाना
F-Block, Rishi Nagar, Ludhiana



मि० सं०: IV(16)Hqrs/Ldh/RTI-Appeal/[REDACTED]/18-19/10426-27

दिनांक: 23.08.2018

Order-in-Appeal No. : 13 /RTI/GST/Ldh/18

(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:

Sh. Shri [REDACTED] at [REDACTED] Madhuban, [REDACTED] Place, [REDACTED] - 110 019, (hereinafter referred to as "the appellant"), vide his application dated 23.05.2018, received in Central Public Information Officer (RTI), office- Ludhiana on 25.06.2018, through CPIO, O/o the Commissioner, CGST Commissionerate, Chandigarh under the Right to Information Act, 2005 (hereinafter referred to as "the Act"), had desired certain information. The RTI was transferred to GST Division, [REDACTED] (hereinafter referred to as "the CPIO") under Section 6(3) of the Act vide CPIO letter C.No. IV(16)Hqrs/LDH/RTI/[REDACTED]/18-19/8879-80 dated 26.06.2018.

2. Grounds of Appeal:

2.1: That the CPIO vide his office letter C.No. II(39)RTI/MISC/[REDACTED]/2017/241 dated 12.07.2018 has denied the information under Section 8(1)(d) of the Act.

2.2: The Appellant, being aggrieved, has filed an appeal dated 30.07.2018 (received on 03.08.2018) on the following grounds:

i) that the information sought cannot in any manner whatsoever be treated as information pertaining to commercial confidence, trade secret and/or intellectual property rights.

ii) that the information sought to be obtained will not in manner whatsoever cause any harm to the Trident Limited.

iii) that it is amply clear from a conjoint reading of Section 2(f) read with Section 8(1)(j) of the RTI Act, which states that any information which cannot be denied to the parliament or State Legislature should not be denied to any person.

iv) that the above information is required is in connection with an ongoing investigation (Which is presently pending against the Trident Limited and several other paper mills across India) by the Hon'ble Competition Commission of India pertaining to a collusive anti-competitive conduct of the various paper mills across India and therefore the information is required for larger public interest of the people of India.

v) that to protect and represent the interests and concerns of the Indian printing Industry, in order to foster them to render better and more useful goods and services to the consumers and the information sought is of vital importance to safeguard their interests who have become of a victim of collusive price rise by the Trident Limited and several other paper mills across India.

3. Reply to the Notice by CPIO:

3.1: A notice vide No. IV(16)Hqrs/ Ldh/RTI-Appeal/[REDACTED]/18-19/10030 dated 07.08.2018 was issued to the CPIO to provide comments on the appeal filed by the Appellant. The CPIO vide his letter C.No. II(39)RTI/MISC/[REDACTED] 2017 dated 20.08.2018 has replied to the notice that the information sought by the appellant pertains to the third party and therefore the information was denied under Section 8(1)(d) of the Act. Point No 1 & 3 of grounds of appeal have already been considered while denying the information. Also point No. 2, 4 and 5 do not serve public interest and doesn't seems to override Section 8(1)(d) of the Act. Therefore the information has not been provided to the appellant.



4. Discussion and Findings:

4.1: I have carefully examined the appeal filed by the Appellant, CPIO's reply to notice and relevant provisions of the Act.

4.2: I find that the appellant was aggrieved for not replying to his RTI application on the grounds mentioned above.

The CPIO has refused to divulge the requisite information citing Section 8(1)(d) of the Act as reasons. For understanding the logic of CPIO's decision, it is pertinent to go through the same. It is produced as below:

"Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen, 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."

The perusal of decision of CPIO and grounds of appeal need to be taken into account for reaching to a reasonable and legal conclusion. Under the **Column on Grounds of Appeal**, the appellant has conveyed vide Point No. 4 that the above information is required in connection with an ongoing investigation (which is presently pending against the Trident Limited and several other paper mills across India) by the Hon'ble Competition Commission of India pertaining to a collusive anti-competitive conduct of the various paper mills across India and therefore the information is required for larger public interest of the people of India.

It is thus admitted that the information is required by the appellant is in connection with an ongoing investigation. Therefore, legal point to be decided in this regard remains, *"whether the information can be supplied to the appellant when the investigation is going on in the matter as conveyed by him."*

It would be apt and to the point to refer to CIC decision in the case titled Shri Vinod Kumar Jain Vs Directorate General of Central Excise Intelligence, New Delhi Appeal No.:

CIC/AT/A/2010/000969/SS. In the said case, the Appellant has sought the details of complete proceedings/records of the investigation being carried out against the appellant with regard to enquiry into the Lakhanpur and Bhanuth/Shambhu check post in J&K and Punjab respectively as the SCN in the matter has been issued and the investigations are complete. The CPIO denied the information to the appellant under Section 8(1)(h) of the RTI Act, 2005 by stating that the investigations in the matter are still pending in view of the Hon'ble CIC's decision in the case of Shri Shanker Sharma and M/s First Global Stock Broking Pvt. Ltd and others Vs Director of Income Tax (Inv.)-II & CPIO, Deptt. of Income Tax. Mumbai.

It was held categorically by the CIC that, " the term 'investigation' used in Section 8(1)(h), in the context of this Act should be interpreted broadly and liberally. We cannot import into RTI Act the technical definition of 'investigation' one finds in Criminal Law. Here, investigation would mean all actions of law enforcement, disciplinary proceedings, enquiries, adjudications and so on. Logically, no investigation could be said to be complete unless it has reached a point where the final decision on the basis of that investigation is taken."

The Commission had upheld the order passed by the F.A.A. in this case and the appeal was accordingly dismissed.

Thus, I do not find any reason to interfere with the decision taken by the CPIO, denying the information. This is also so in view of the fact that the proceedings are quasi-judicial in nature as also applicability of Section 8(1)(d) of the Act.

5. Order:

In view of above, the appeal filed by the appellant is disposed off accordingly.

PG 23/4/16
(Parul Garg, IRS)
1st Appellate Authority (RTI)
OL GST Commissionerate, Ludhiana.

Speed Post/copy to:-

- (i) Sh. [REDACTED] at [REDACTED], Madhuban, [REDACTED] Place, [REDACTED]
- (ii) The CPIO(RTI), GST Division, [REDACTED].

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Ph.: +91-11

केन्द्रीय माल एवं सेवाकर आयुक्तालय
 CENTRAL GST COMMISSIONERATE
 लुधियाना/Ludhiana
 03 AUG 2018
 प्राप्ति संख्या.....4496.....

No. [redacted]
July 30, 2018

Appeal under Section 19 of the Right to Information Act, 2005

To
The Joint Commissioner
Appellate Authority
 Under the RTI Act, 2005
 O/o The Principal Commissioner
 GST Commissionerate Ludhiana
 F-Block, Rishi Nagar
 Ludhiana- 141001

S(RTI)
[Handwritten signature]

A. Contact details:

1. Name of the Applicant	Shri. [redacted]
2. Address	[redacted] Madhuban, [redacted], [redacted]

B. Details about RTI request:

1. Particulars of the CPIO against whose order appeal is preferred	(a) Name	Mr Vikash Verma, Assistant Commissioner-cum-CPIO under RTI Act, 2005, GST Division [redacted]
	(b) Address	Office of the Assistant Commissioner, Goods & Services Tax Division-[redacted] TR Complex, Court Chownk, [redacted].
2. Date of submission of application (copy attached)	23.05.2018	
3. Brief facts leading to Appeal	(a)	This is furtherance to my RTI Application No. 411/Com/LI&DC/2017-18/37 dated 23.05.2018 addressed to office of The Assistant Deputy Commissioner under RTI Act, 2005, O/o The Deputy Commissioner, Barnala, Appellate Authority, Barnala-148101.
	(b)	In the above RTI application, I have requested for providing the following information in respect of [redacted], Dhaula Complex, Mansa Road, [redacted] Punjab):

1. The details of assessable value of the goods manufactured and the excise duty paid on it during the period from :
 - a. 1 April 2013 to 31 March 2014
 - b. 1 April 2014 to 31 March 2015
 - c. 1 April 2015 to 31 March 2016
 - d. 1 April 2016 to 31 March 2017
 - e. 1 April 2017 to 31 May 2017

2. The details of the amount of MODVAT paid during the period from :
 - a. 1 April 2013 to 31 March 2014
 - b. 1 April 2014 to 31 March 2015
 - c. 1 April 2015 to 31 March 2016
 - d. 1 April 2016 to 31 March 2017
 - e. 1 April 2017 to 31 May 2017

3. The details of any input costs claimed on excise duty and MODVAT during the period from :
 - a. 1 April 2013 to 31 March 2014
 - b. 1 April 2014 to 31 March 2015
 - c. 1 April 2015 to 31 March 2016
 - d. 1 April 2016 to 31 March 2017
 - e. 1 April 2017 to 31 May 2017

(c) The Learned CPIO has vide letter no. C. No. II(39)/RTI/MISC/BNL/01/2017/240 dated 12.07.2018 received on 17.07.2018 in reply to our RTI Application inter alia stated as under :-

"As per Section 8(1)(d) of the Right to Information Act, 2005:

8. Exemption from disclosure of information -

(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.

As in case of your RTI, the information seeked is related to trade secrets or intellectual property. Hence, no information may be provided by this office in respect of your RTI application.

If you are not satisfied with the *ibid* reply, you may file an appeal within 30 days from the receipt of this letter, with the Appellate Authority as under:

The Joint Commissioner, Appellate Authority, under the RTI Act, 2005, O/O the Principal Commissioner, GST Commissionerate Ludhiana, F-Block, Rishi Nagar, Ludhiana."

A true copy of the said response is annexed hereto.

(d) Being aggrieved by the said response, the present appeal is being filed on the following grounds:

4. Ground for Appeal

1. That the information sought by the Applicant cannot in any manner whatsoever be treated as information pertaining to commercial confidence, trade secret and/or intellectual property rights.
2. That the information sought to be obtained by the Applicant will not in manner whatsoever cause any harm to the Trident Limited.
3. That it is amply clear from a conjoint reading of Section 2(f) read with Section 8(1) (j) of the RTI Act, which states that any information which can't be denied to the Parliament or State Legislature should not be denied to any person.
4. That the above information is required by the Applicant in connection with an ongoing investigation (which is presently pending against the Trident Limited and several other paper mills across India) by the Hon'ble Competition Commission of India pertaining to a collusive anti-competitive conduct of the various paper mills across India and therefore the information is required for larger public interest of the people of India.
5. That the Applicant, protect and represent the interests and concerns of the Indian Printing Industry, in order to foster them to render better and more useful goods and services to the consumers and the information sought by the Applicant is of vital importance to safeguard their interests who have

	become of a victim of collusive price rise by the Trident Limited and several other paper mills across India.
5. Prayer or relief sought	In view of the above facts and circumstances, it is most respectfully submitted that the Information requested to be obtained by the Applicant should be provided in the interests of Justice.
6. Last date for filing the appeal	16.08.2018
7. Copies of documents relied upon by the applicant	(i) Letter no. C: No. II(39)/RTI/MISC/[REDACTED]/2017/240 dated 12.07.2018



Signature of Applicant

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GOODS & SERVICES TAX COMMISSIONERATE
F-BLOCK, RISHI NAGAR, LUDHIANA



C.No.: IV(16)Hqrs/LDH/RTI appeal/[REDACTED]/18-19/10283-84 दिनांक: 08.2018
20

Order-in-Appeal No. : 12/RTI/GST/Ldh/18

(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:

Brig. [REDACTED], No. [REDACTED], Sector [REDACTED] (hereinafter referred to as "the appellant"), vide his RTI application dated 31.05.2018, received in Central Public Information Officer (RTI), office- Ludhiana on 04.06.2018. The said RTI application was transferred under Section 6(3) to CPIO, GST Division, Ludhiana [REDACTED] (hereinafter referred to as "the CPIO"), under the Right to Information Act, 2005 (hereinafter referred to as "the Act") to provide the requisite information to the applicant.

That the CPIO vide his office letter C.No. GST/[REDACTED]h/Ldh/[REDACTED]/2018/8672 dated 11.07.2018 provided certain information. The Appellant, being not satisfied with the reply of CPIO, has filed appeal dated 25.07.2018 received on 30.07.2018.

2. Grounds of Appeal:

The RTI appeal filed on the following grounds:

- (a) That SCN has been issued after completion of all the investigation, hence SCN attained finality. Therefore, there should be no objection in providing copy of SCN.
- (b) This office has failed to supply the copies of Chief Commissioner office letters without any reason.
- (c) The CPIO has wrongly suggested that I am a third party or the said companies are third parties. I being the informer cannot be called as third party or public.

3. Reply to the Notice:

A notice vide C.No. IV (16) Hqrs/Ldh/RTI Appeal/[REDACTED]/18-19/9801 dated 01.08.2018 was issued to the GPIO, GST Division, Ludhiana-South to provide comments on the appeal filed by the Appellant. The CPIO vide his letter C.No. GST/[REDACTED]/Ldh/[REDACTED]/2018/9217 dated 16.08.2018 has replied to the notice as under:-

Point No. 4a: It was intimated to the appellant that information called for this point is not available with this office.

Point No. 4b & 4c: : It was intimated to the appellant that information called for these points pertains to third parties and the information was denied after asking the parties whether the information should be shared or not.

4. Discussion and Findings:

I have carefully examined the appeal filed by the Appellant, the reply of the CPIO, his reply to the notice and relevant provisions of the Act.

At the very outset, I note that the nature of job of an organisation like Central Excise (now called GST) in addition to collecting revenue is also gathering of intelligence, causing intelligence and prosecution of offender(s), if law permits so. To execute this important work, utmost confidentiality of information is a must. But I also further observe that Central Excise is not excluded from the purview of RTI Act, 2005 and as such has to maintain a fine balance between the transparency and the public interest under the Act and the protected interest under Section 8 of the Act.

Having noted the above, it is imperative to define and discuss certain legal terms before reaching to the conclusion as to whether the information sought should be supplied to the appellant or to go with the decision of the CPIO.

*i) **Quasi-judicial body/proceedings:-** The word "quasi" consists of two Latin words i.e. 'Quam + Si'. Quam in Latin means 'as much as' and Si means 'if'. The prefix 'quasi' connotes the meaning-'similar to but not exactly the same as.' Thus, quasi-judicial proceedings are similar to but not exactly court proceedings. The term also implies that these authorities are not routinely responsible for holding such proceedings and often may have other duties.*

In short, an administrative function is called 'quasi-judicial' when there is an obligation to assume a judicial approach and to comply with the basic requirements of natural justice. Thus, the fundamental purpose of quasi-judicial hearing is to provide the affected parties due process. Due process requires notice of the proceedings and an opportunity to be heard.

Thus, a quasi-judicial body is one which exercises a discretion that is essentially judicial in character but not a court exercising judicial power in the constitutional sense. It also follows that such an entity may be an arbitrator, tribunal board, or any other public authority vested with such powers, generally of a public administrative agency which has powers and procedures resembling those of a court of law or judge and which is obliged to objectively determine facts and draw conclusions from them so as to provide the basis of an official action.

ii) Investigation/process of investigation:- The criminal procedure of course differentiates between investigation, enquiry and trial and the three terms as a matter of fact denote three different stages of a criminal case. The first stage is reached when a police officer begins investigation into the case, followed by the next stage which is when the case is sent to a magistrate. The trial comes the next. As has been held by the Apex Court the word 'investigation' cannot be limited only to a police investigation but includes the investigation carried on by any agency whether he be a police officer or empowered or authorized officer invested with the power of investigation. The expression enquiry as defined under the Court of Criminal Procedure is of wide import of and takes in every proceeding other than a trial conducted by a magistrate.

Now revisiting the contents of the appeal in question as well as the decision of the CPIO, it would be in the fitness of things to go through the relevant portion of Section 8 of the Act as well as the related decisions. I shall make use of various judgments of different legal fora to understand the nitty gritty of the case. The basic question before me to be decided is whether the contention of the Appellant that the information sought by him does not fall under Section 8(1)(h) of the Act. This gives rise to another legal question as to whether the information can be supplied to the Appellant when the proceedings are of quasi-judicial nature as also the investigation is still on in this case or otherwise as claimed by the Appellant.

The relevant portion of Section 8 of the Act is reproduced below:

Section 8 Exemption from disclosure of information- (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,-

- (a)-----
- (b)-----
- (c)-----
- (d)-----
- (e)-----
- (f)-----
- (g)-----

(h) information which would impede the process of investigation or apprehension or prosecution of offenders;

The detailed case law is discussed as under:

(i) In the case of Shri Vijay Kamble Vs Customs Department, Mumbai (F.No. CIC/AT/A/2008/01466 dated 23.03.2009), the appellant asked for copies of show cause notices and other documents relating to the proceedings by Directorate of Revenue Intelligence (DRI) and currently under adjudication by the Commissioner of Customs (Exports). CPIO and the Appellate Authority declined to disclose the information citing Sections 8(1)(d), 8(1)(h) and 8(1)(j) of the RTI Act.

In the said case, the CIC has held that the principal factor which needs to be addressed, nevertheless, is whether the proceedings before Commissioner of Customs admittedly a quasi-judicial proceedings would admit of action under the Act. Citing their own decision in the case of Rakesh Kumar Gupta Vs Income Tax Appellate Tribunal (ITAT); Appeal No. CIC/AT/A/2006/00586; date of decision; 18.09.2007 that once it is established that a certain information requested by an applicant is related to a quasi-judicial proceeding, RTI Act cannot be invoked to access the information related to that proceeding, it was held that it will not be possible for him to allow disclosure of the requested information and accordingly disposed off the appeal.

(ii) In the case titled Shri Shanker Sharma and M/s First Global Stock Broking Pvt. Ltd and others Vs Director of Income Tax (Inv.)-II & CPIO, Deptt. of Income Tax. Mumbai.

(F.No. CIC/AT/A/2007/00007 dated 10.07.2007). The relevant portion of this judgment is reproduced below:

"Thus, the term 'investigation' used in Section 8(1)(h), in the context of this Act should be interpreted broadly and liberally. We cannot import into RTI Act the technical definition of 'investigation' one finds in Criminal Law. Here, investigation would mean all actions of law enforcement, disciplinary proceedings, enquiries, adjudications and so on. Logically, no investigation could be said to be complete unless it has reached a point where the final decision on the basis of that investigation is taken. In that sense, an investigation can be an extended investigation. In the case of Income Tax Department investigation into tax evasion can be said to be over or complete, only after the final adjudication about the tax liability had been made after that matter has gone through all the stages of appeals and revisions as well as final decision about prosecuting or not prosecuting that person has been taken by an appropriate competent authority."

(iii) In the case titled Shri Vinod Kumar Jain Vs Directorate General of Central Excise Intelligence, New Delhi Appeal No. CIC/AT/A/2010/000969/SS, the Appellant has sought the details of complete proceedings/records of the investigation being carried out against the appellant with regard to enquiry into the Lakhanpur and Bhanuth/Shambhu check post in J&K and Punjab respectively as the SCN in the matter has been issued and the investigations are complete. The CPIO denied the information to the appellant under Section 8(1)(h) of the RTI Act, 2005 by stating that the investigations in the matter are still pending in view of the Hon'ble CIC's decision in the case of Shri Shanker Sharma and M/s First Global Stock Broking Pvt. Ltd and others Vs Director of Income Tax (Inv.)-II & CPIO, Deptt. of Income Tax. Mumbai.

It was held categorically by the CIC that, " the term 'investigation' used in Section 8(1)(h), in the context of this Act should be interpreted broadly and liberally. We cannot import into RTI Act the technical definition of 'investigation' one finds in Criminal Law. Here, investigation would mean all actions of law enforcement, disciplinary proceedings,

enquiries, adjudications and so on. Logically, no investigation could be said to be complete unless it has reached a point where the final decision on the basis of that investigation is taken."

The Commission had upheld the order passed by the F.A.A. in this case and the appeal was accordingly dismissed.

(iv) In the case of Shri Milap Choraria Vs CBDT(No.CIC/AT/C/2008/00025 dated 27.7.2009), the Hon'ble CI decided that unless the appellant cite any public interest that would commend superseding the protected interest in the matter of disclosure of the requested information, within the meaning of Section 11(1) of the RTI Act, 2005, the information sought cannot be supplied.

(v) In the case of Dr. B. L. Malhotra Vs The National Small Industries Corporation Ltd. (No. 783/IC(A)2007 dated 06.06.2007), the appellant asked for the information which contained material pertaining to corruption involving the appellant, some others officers of respondent and a few business concerns. The major portion of investigation were still pending/or was contemplated. The information was denied under Section 8(1)(h) by the CPIO.

The CIC has ruled that since the investigation process is in progress and is also contemplated against some other officers and business concerns, the exemption claimed under Section 8(1)(h) from disclosure of information is justified.

(vi) In the case of Ravinder Kumar Vs B.S. Bassi, Joint Commissioner, Police (F. No. CIC/AT/A/2006/00004 dated 30.06.2006), the applicant had sought details regarding the progress of an investigation of a case by the police, the CIC dismissed the appeal relating to the disclosure of information, citing the reasons that it is justified not to disclose information in case of ongoing police investigations (which have not yet been completed) because such a disclosure could hamper the investigation process.

From the above discussion I am inclined to go by the decisions of the CPIO given the fact that the proceedings are quasi-judicial in nature, investigation is not complete as also the Appellant has not been able to substantiate any public interest that would commend superseding the protected interest in the matter of disclosure of the requested information, within the meaning of Section 11(1) of the RTI Act, 2005.

5. **Order:**

In view of above, the appeal filed by the appellant is disposed off accordingly..

By 17/8/18

(Parul Garg, IRS)

1st Appellate Authority (RTI)

OIC

GST Commissionerate, Ludhiana.

Speed Post:-

1. Sh. [REDACTED], H.No. [REDACTED] Sector [REDACTED], [REDACTED]
2. The CPIO, GST Commissionerate, Ludhiana. *Divya* [REDACTED]

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S(KTI)
Ry
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NO_IC16663/2018

[Redacted]

25 July 2018

h. Singh, Jop.
Ry
01/8/18

Ms. Parul Garg
Joint Commissioner (1st Appellant Authority),
Central GST Commissionerate
F-Block, Rishi Nagar
Ludhiana

Subject- Appeal against letter CNo GST/ [Redacted] /Ldh / [Redacted] 2018 / 8672-dated 11.07.18. of CPIO GST Division [Redacted] Ludhiana.

Madam,

1. **Background of the case:-** It is submitted that I had provided an information regarding huge evasion of service tax by M/S Fastway Citizen Cable Network (Pvt) Ltd Ludhiana vide my letter dt 20.11.2014 to PMO. The said letter trickled down to the office of Chief Commissioner (CZ) Chandigarh and was forwarded by him to Central Excise Commissionerate Ludhiana for taking necessary action against the said evader of Service Tax. During my subsequent personal interactions with the Chief commissioner, to ascertain the developments of the said case of evasion, Chief Commissioner (CZ) CHD informed me that his office has already directed the Comm. (CE) Commissionerate Ludhiana vide his office letters:- CNo 12/Zone/- 4/ST/2014/2416 dt 1.4.15 & CNo 12/zone- 14/ST/2014/3440 dt 28.4.15. to take necessary action against the said transmission companies.

2. During July 2017, it was learnt through reliable sources that on the basis of my information, ST Deptt has already recovered an amount of more than Rs.15 crores from the various said ST evaders namely M/s Fastway and their allied companies and issuance of show cause notice involving huge evasion of ST by M/S Fastway, is still in a pipeline. It was further reliably learnt that DG GSTI Ludhiana has already issued SCN to M/S Fastway for evasion of ST of more than Rs350 crores.

3. It is submitted that CPIO GST Commissionerate Ludhiana has failed to supply the requisite information under RTI on the following grounds by wrongly invoking provision of section 8(1) of the RTI Act :

a. That as per procedure, the show cause Notice is issued, once all the investigation have been completed and no further allegation/ objection can be included in the said show cause Notice. Since in this case, SCN has already been issued by DG GSTI Ldh after completion of all the investigation, hence SCN attained finality. Thereafter, there should be no objection of providing a copy of such show cause notices issued to the said companies by DG GSTI Ldh. or the ST Deptt. on the basis of my information.

b. That They have failed to supply copies of the letters CNo:- CNo12/Zone/-14/ST/2014/2416 dt 1.4.15 & CNo 12/zone- 14/ST/2014/3440 dt 28.4.15, under which my information was forwarded to Commissioner CE, commissionerate Ldh for taking necessary action in this matter without justifiable reason. It is wrong to say that I am a third party or the said companies are third parties. I being the informer cannot be called as third party or public.

4. It is therefore requested that CPIO GST Division -South Ludhiana may be directed to supply the requisite information sought under RTI Act. In this case, refer my letter forwarded earlier, a copy of which is enclosed for your ready reference please.

5. It is also requested that the copies of the said SCN already issued by DG GSTI Ldh to M/S Fastway with copy respective Commissionerate, Division & Ranges etc in the Department, may pl be supplied to me.

Thanking you,

Enclosures: 1. Letter CNo. IV(16)Hqrs/Ldh/Tech/RTI/JS/17/18-19/8989 dt 3.7.18
2. Letter CNo. 16663/2018 dt. 31/May/18

Yours sincerely,
[Redacted]

GOODS & SERVICES TAX COMMISSIONERATE
F-BLOCK, RISHI NAGAR, LUDHIANA



C.No.: IV(16)Hqrs/LDH/RTI appeal/[REDACTED]/18-19/10277-78 दिनांक: 17.08.2018

Order-in-Appeal No. : 11/RTI/GST/Ldh/18

(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:

Brig. [REDACTED], H.No. [REDACTED] Sector [REDACTED], [REDACTED] (hereinafter referred to as "the appellant"), vide his RTI application dated 31.05.2018, received in Central Public Information Officer (RTI), office- Ludhiana on 04.06.2018 (hereinafter referred to as "the CPIO"), under the Right to Information Act, 2005 (hereinafter referred to as "the Act"), had desired certain information.

That the CPIO vide his office letter C.No. IV(16)Hqrs/Ldh/Tech/RTI/[REDACTED]/18-19/8989 dated 03.07.2018 provided certain information. The Appellant, being not satisfied with the reply of CPIO, has filed appeal dated 26.07.2018 received on 30.07.2018 through GST Sub-Commissionerate, Mohali.

2. Grounds of Appeal:

The RTI appeal filed on the following grounds:

- (a) That SCN has been issued after completion of all the investigation, hence SCN attained finality. Therefore, there should be no objection in providing copy of SCN.
- (b) This office has failed to supply the copies of Chief Commissioner office letters without any reason.
- (c) The CPIO has wrongly suggested that the information to be procured from third party. The information asked is not covered under Section 8 of the Act as stated by the CPIO.

3. Reply to the Notice:

A notice vide C.No. IV (16) Hqrs/Ldh/RTI Appeal/ [redacted] 18-19/9780 dated 31.07.2018 was issued to the CPIO, GST Commissionerate, Ludhiana to provide comments on the appeal filed by the Appellant. The CPIO vide his letter C.No. IV(16)Hqrs/Ldh/Tech/RTI/[redacted]/18-19/10043 dated 08.08.2018 has replied to the notice as under:-

Point No. 1: The case law is re-iterated below:

“ Investigation into tax evasion can be said to be over or complete, only after the final adjudication about the tax liability had been made after the matter has gone through all the stages of appeals and revisions as well as final decision about prosecuting or not prosecuting that person has been taken by an appropriate competent authority.”

In view of the above clear and unambiguous ruling by the CIC, the requisite information cannot be provided to the applicant.

Point No. 2: As informed by Preventive Branch, the record related to the party in question has already been transferred to DGGSTI Ludhiana in December, 2017. Hence this office is not in a position to supply the copies of the said letters.

Point No. 3: The grounds of appeal in r/o this point are not tenable as this office (CPIO) has neither denied the information under third party nor under Section 8 of the Act as also this was not sought by the applicant.

4. Discussion and Findings:

I have carefully examined the appeal filed by the Appellant, the reply of the CPIO, his reply to the notice and relevant provisions of the Act.

At the very outset, I note that the nature of job of an organisation like Central Excise (now called GST) in addition to collecting revenue is also gathering of intelligence, causing intelligence and prosecution of offender(s), if law permits so. To execute this important work, utmost confidentiality of information is a must. But I also further observe that Central Excise is not excluded from the purview of RTI Act, 2005 and as such has to maintain a fine balance between the transparency and the public interest under the Act and the protected interest under Section 8 of the Act.

Having noted the above, it is imperative to define and discuss certain legal terms before reaching to the conclusion as to whether the information sought should be supplied to the appellant or to go with the decision of the CPIO.

i) Quasi-judicial body/proceedings:- The word "quasi" consists of two Latin words i.e. 'Quam + Si'. Quam in Latin means 'as much as' and Si means 'if'. The prefix 'quasi' connotes the meaning 'similar to but not exactly the same as.' Thus, quasi-judicial proceedings are similar to but not exactly court proceedings. The term also implies that these authorities are not routinely responsible for holding such proceedings and often may have other duties.

In short, an administrative function is called 'quasi-judicial' when there is an obligation to assume a judicial approach and to comply with the basic requirements of natural justice. Thus, the fundamental purpose of quasi-judicial hearing is to provide the affected parties due process. Due process requires notice of the proceedings and an opportunity to be heard.

Thus, a quasi-judicial body is one which exercises a discretion that is essentially judicial in character but not a court exercising judicial power in the constitutional sense. It also follows that such an entity may be an arbitrator, tribunal board, or any other public authority vested with such powers, generally of a public administrative agency which has powers and procedures resembling those of a court of law or judge and which is obliged to objectively determine facts and draw conclusions from them so as to provide the basis of an official action.

ii) Investigation/process of investigation:- The criminal procedure of course differentiates between investigation, enquiry and trial and the three terms as a matter of fact denote three different stages of a criminal case. The first stage is reached when a police officer begins investigation into the case, followed by the next stage which is when the case is sent to a magistrate. The trial comes the next. As has been held by the Apex Court the word 'investigation' cannot be limited only to a police investigation but includes the investigation carried on by any agency whether he be a police officer or empowered or authorized officer invested with the power of investigation. The

expression enquiry as defined under the Court of Criminal Procedure is of wide import of and takes in every proceeding other than a trial conducted by a magistrate.

Now revisiting the contents of the appeal in question as well as the decision of the CPIO, it would be in the fitness of things to go through the relevant portion of Section 8 of the Act as well as the related decisions. I shall make use of various judgments of different legal fora to understand the nitty gritty of the case. The basic question before me to be decided is whether the contention of the Appellant that the information sought by him does not fall under Section 8(1)(h) of the Act. This gives rise to another legal question as to whether the information can be supplied to the Appellant when the proceedings are of quasi-judicial nature as also the investigation is still on in this case or otherwise as claimed by the Appellant.

The relevant portion of Section 8 of the Act is reproduced below:

Section 8 Exemption from disclosure of information- (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,-

- (a)-----
- (b)-----
- (c)-----
- (d)-----
- (e)-----
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(h) information which would impede the process of investigation or apprehension or prosecution of offenders;

The detailed case law is discussed as under:

(i) In the case of Shri Vijay Kamble Vs Customs Department, Mumbai (F.No. CIC/AT/A/2008/01466 dated 23.03.2009), the appellant asked for copies of show cause notices and other documents relating to the proceedings by Directorate of Revenue Intelligence (DRI) and currently under adjudication by the Commissioner of Customs (Exports). CPIO and the Appellate Authority declined to disclose the information citing Sections 8(1)(d), 8(1)(h) and 8(1)(j) of the RTI Act.

In the said case, the CIC has held that the principal factor which needs to be addressed, nevertheless, is whether the proceedings before Commissioner of Customs admittedly a quasi-judicial proceedings would admit of action under the Act. Citing their own decision in the case of Rakesh Kumar Gupta Vs Income Tax Appellate Tribunal (ITAT); Appeal No. CIC/AT/A/2006/00586; date of decision;18.09.2007 that once it is established that a certain information requested by an applicant is related to a quasi-judicial proceeding, RTI Act cannot be invoked to access the information related to that proceeding, it was held that it will not be possible for him to allow disclosure of the requested information and accordingly disposed off the appeal.

(ii) In the case titled Sri Shanker Sharma and M/s First Global Stock Broking Ovt. Ltd and others Vs Director of Income Tax (Inv.)-II & CPIO, Deptt. of Income Tax. Mumbai (F.No. CIC/AT/A/2007/00007 dated 10.07.2007). The relevant portion of this judgment is reproduced below:

"Thus, the term 'investigation' used in Section 8(1)(h), in the context of this Act should be interpreted broadly and liberally. We cannot import into RTI Act the technical definition of 'investigation' one finds in Criminal Law. Here, investigation would mean all actions of law enforcement, disciplinary proceedings, enquiries, adjudications and so on. Logically, no investigation could be said to be complete unless it has reached a point where the final decision on the basis of that investigation is taken. In that sense, an investigation can be an extended investigation. In the case of Income Tax Department investigation into tax evasion can be said to be over or complete, only after the final adjudication about the tax liability had been made after that matter has gone through all the stages of appeals and revisions as well as final decision about prosecuting or not prosecuting that person has been taken by an appropriate competent authority."

(iii) In the case titled Shri Vinod Kumar Jain Vs Directorate General of Central Excise Intelligence, New Delhi Appeal No. CIC/AT/A/2010/000969/SS, the Appellant has sought the details of complete proceedings/records of the investigation being carried out against the appellant with regard to enquiry into the Lakhanpur and Bhanuth/Shambhu check post in J&K and Punjab respectively as the SCN in the matter has been issued and the investigations are

complete. The CPIO denied the information to the appellant under Section 8(1)(h) of the RTI Act, 2005 by stating that the investigations in the matter are still pending in view of the Hon'ble CIC's decision in the case of Shri Shanker Sharma and M/s First Global Stock Broking Ovt. Ltd and others Vs Director of Income Tax (Inv.)-II & CPIO, Deptt. of Income Tax. Mumbai.

It was held categorically by the CIC that, " the term 'investigation' used in Section 8(1)(h), in the context of this Act should be interpreted broadly and liberally. We cannot import into RTI Act the technical definition of 'investigation' one finds in Criminal Law. Here, investigation would mean all actions of law enforcement, disciplinary proceedings, enquiries, adjudications and so on. Logically, no investigation could be said to be complete unless it has reached a point where the final decision on the basis of that investigation is taken."

The Commission had upheld the order passed by the F.A.A. in this case and the appeal was accordingly dismissed.

(iv) In the case of Shri Milap Choraria Vs CBDT(No.CIC/AT/C/2008/00025 dated 27.7.2009), the Hon'ble CIC decided that unless the appellant cite any public interest that would commend superseding the protected interest in the matter of disclosure of the requested information, within the meaning of Section 11(1) of the RTI Act, 2005, the information sought cannot be supplied.

(v) In the case of Dr. B. L. Malhotra Vs The National Small Industries Corporation Ltd. (No. 783/IC(A)2007 dated 06.06.2007), the appellant asked for the information which contained material pertaining to corruption involving the appellant, some others officers of respondent and a few business concerns. The major portion of investigation were still pending/or was contemplated. The information was denied under Section 8(1)(h) by the CPIO.

The CIC has ruled that since the investigation process is in progress and is also contemplated against some other officers and business concerns, the exemption claimed under Section 8(1)(h) from disclosure of information is justified.

iii) In the case of Ravinder Kumar Vs B.S. Bassi, Joint Commissioner, Police (F. No. CIC/AT/A/2006/00004 dated 30.06.2006), the applicant had sought details regarding the progress of an investigation of a case by the police, the CIC dismissed the appeal relating to the disclosure of information, citing the reasons that it is justified not to disclose information in case of ongoing police investigations (which have not yet been completed) because such a disclosure could hamper the investigation process.

From the above discussion I am inclined to go by the decisions of the CPIO given the fact that the proceedings are quasi-judicial in nature, investigation is not complete as also the Appellant has not been able to substantiate any public interest that would commend superseding the protected interest in the matter of disclosure of the requested information, within the meaning of Section 1(1) of the RTI Act, 2005.

5. **Order:**

In view of above, the appeal filed by the appellant is disposed off accordingly..

By 17/8/18
(Parul Garg, IRS)

1st Appellate Authority (RTI)

OIC GST Commissionerate, Ludhiana.

Speed Post:-

1. Sh. [REDACTED], H.No. [REDACTED] Sector [REDACTED]
2. The CPIO, GST Commissionerate, Ludhiana.

No IC- 16663/2018

[REDACTED]
House No [REDACTED]
[REDACTED]
[REDACTED]

24 July 2018

Dr. Hardeep Singh
Additional Commissioner (1st Appellant Authority),
Central Revenue Building, GST Bhawan
Plot no 19, sec-17 C,
Chandigarh

Subject- Appeal against letter C No IV (16) HQRS/LDH/TECH/RTI [REDACTED]
19/8989, dt 3.7.18 of CPIO Commissionerate Ludhiana.

Sir,

1. **Background of the case** :- it is submitted that I had provide the information regarding huge evasion of service tax by M/S Fastway Citizen Cable Network (Pvt) Ltd Ludhiana during November 2014. Based on my information, the chief Commissioner (CZ) had directed the Central Excise Commissioner for taking necessary action against the said evader of service tax. During my subsequent personal interaction with the chief Commissioner to ascertain the development the said case of evasion, Chief Commissioner (CZ) Chd informed me that his office had already directed the Comm Commissionerate Ludhiana vide their letter No's:- C No 12/zone/-14/ST/2014/2416 dt 1.4.15 & C No 12/zone-14/St/2014/3440 dt 28.4.15 to take necessary action against the said transmission companies.
2. During July 2017, it was learnt through reliable sources that on the basis of my information, ST Deptt has already recovered an amount of more than 15 crores from the various ST evaders M/s Fastway & their allied companies and issuance of show cause notice involving huge evasion of ST by M/S Fastway which is stiii in a pipeline. It was further reliably learnt that DG GSTI Ludhiana has already issued SCN to M/S Fastway for evasion of ST of more than Rs 350 crore.
3. It is submitted that CPIO GST Commissionerate Ludhiana has denied to supply the requisite information under RTI on the following grounds by wrongly invoking provision of section 8 (1) of the RTI:-

- (a) As per procedure, the show cause notice is issued, once all the investigation have been completed and no further allegations/objections can be included in the said show cause notice. Since in this case, SCN has already been issued by DG GSTI Ldh after completion of all the investigation, hence SCN attained finality. Thereafter, there should be no objection in providing a copy of such show cause notices issued to the above company by the concerned office.
 - (b) They have failed to supply copies of the letter CNo 12/zone-14/ST/2014/2416 dt 1.4.15 & CNo 12/zone-14 /ST/ 2014/3440 dt 28.4.15, under which my Information was forwarded to commissioner CE Commlssionate for taking necessary action without any reason.
 - (c) The CPIO has wrongly suggested that I have asked for information to be procured from the third party i.e, M/S Fastway. On the contrary, I have asked for information under RTI as an informer from ST Deptt based on my information. The DGCEI/DGSTI has issued show cause notice of ST evasion of more than 350 crores approx. against M/S Fastway. Therefore, it is clarified that the information asked for by me is not covered under sec 8 of RTI act as stated by the CPIO.
4. In the end, it is therefore requested that CPIO GST Comissionerate Ludhiana may be directed to supply the requisite information sought under RTI Act. In this case, refer my letter forwarded earlier, a copy of which is enclosed for your ready reference please.
 5. It is also requested that the copies of the said SCN already issued by DG GSTI Ldh to M/S Fastway and forwarded to respective commlssionerate, Division & and others in the deptt may also be supplied.

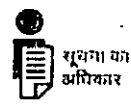
Thank you.

Yours Sincerely,





- Encl: 1. Letter C No IV (16) HQRS/LDH/TECH/RTI/JS/18- 19/8/2018 dt. 3.7.18.
2. Letter no. 16663/2018 dt. 31 May 2018.



**GOODS & SERVICES TAX COMMISSIONERATE
F-BLOCK, RISHI NAGAR, LUDHIANA**

फ स: IV(16)Hqrs/LDH/RTI Appeal/[REDACTED]18-19/10285-86 दिनांक: .08.2018
20

Order-in-Appeal No. : 10/RTI/GST/Ldh/18

(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:

[REDACTED] (hereinafter referred to as "the appellant"), vide his RTI application dated 17.06.2018, received in Central Public Information Officer (RTI), office- Ludhiana on 25.06.2018 (hereinafter referred to as "the CPIO"), through Nodal Officer, O/o the Director General, Goods & Services Tax, New Delhi under the Right to Information Act, 2005 (hereinafter referred to as "the Act"), had desired certain information.

That the CPIO vide his office letter C.No. IV(16)Hqrs/Ldh/RTI/[REDACTED]18-19/9377 dated 17.07.2018 provided certain information. The Appellant, being not satisfied with the reply of CPIO, has filed appeal vide e mail received on dated 23.07.2018.

2. Grounds of Appeal:

The appellant filed RTI appeal on the following grounds:

- i) That the copy of appeal could not traced out. Is this the proper reply? The department is duly bound to keep all the records ready and intact. This is not acceptable.
- ii) That instead of providing present status, the CPIO has provided the website. It is the duty of the addressee department to provide the reply/documents requested for.

3. Reply to the Notice:

A notice vide C.No. IV (16) Hqrs/Ldh/RTI Appeal/[REDACTED]18-19/9665 dated 25.07.2018 was issued to the CPIO, GST Commissionerate, Ludhiana to provide comments on the appeal filed by the Appellant.

4. Discussion and Findings:

I have carefully examined the appeal filed by the Appellant, the reply of the CPIO, and relevant provisions of the Act.

From the facts available on records, I have observed that the appellant has filed appeal for non supply of information and documents sought in RTI application dated 17.06.2018.

I notice that the Public Authority is duty bound to furnish the information to the appellant as per the various provisions of the Act. I agree to the contention of the appellant that the department is duty bound to keep the records ready and intact. With regard to the request of the appellant for intimating the status of the appeal in question, I agree to the observations of the CPIO that the information required is available in the Public Domain and as such cannot be said to be *held* or under the *control of Public Authority*.

Accordingly, I order the CPIO to supply copy of appeal filed by the party before CESTAT to the appellant within 07 days from the date of receipt of this order.

5. Order:

In view of above, the appeal filed by the appellant is disposed off accordingly..

P 17/6/18

(Parul Garg, IRS)

1st Appellate Authority (RTI)

GST Commissionerate, Ludhiana.

alc

Speed Post:-

- (i) Sh. [REDACTED]
- (ii) The CPIO, GST Commissionerate, Ludhiana

35



Ludhiana GST Technical <gstldhtech@gmail.com>

Fwd: F.no.IV(16)Hqrs/LDH/RTI/Harish/20/18-19/9377 dtd.17.07.2018.

1 message

GSTICU LDH <gsticuldh@gmail.com>
To: Ludhiana GST Technical <gstldhtech@gmail.com>

Fri, Jul 20, 2018 at 9:06 PM

----- Forwarded message -----
From: [REDACTED] <[REDACTED]@gmail.com>
Date: Fri, Jul 20, 2018, 8:40 PM
Subject: F.no.IV(16)Hqrs/LDH/RTI [REDACTED] 18-19/9377 dtd.17.07.2018.
To: <gsticuldh@gmail.com>

The 1st Appellate Authority, Ms.Parul Garg, IRS. Respected Madem, I had received the above cited letter from The CPIO, of your office. The reply is evasive and revealed nothing. 1. The copy of the Appeal filed by the party against OIO No.02/ldh/2012 dtd. 17.02.12 could not be traced out. Is this the proper reply? As per Chapter II section 4(a).Of the RTI Act your department is duty bound to keep all the records ready and intact. Hence this excuse is not acceptable. 2. Instead of providing the Present status, The CPIO had provided me the website address of the CESTAT, Whereas u/s. 6(3) (i)(ii) of The RTI Act it is the duty of the addressee department to provide the reply/documents requested for. Please dont compell me go out of the Department and provide the document and information requestd as per my email letter dtd. 17.06.2018.

Thanks, yours, [REDACTED], [REDACTED], Anti corruption council of India, [REDACTED]

S(RTI)
BS



सत्यमेव जयते

कार्यालय प्रधान आयुक्त

OFFICE OF THE PRINCIPAL COMMISSIONER

वस्तु एवम् सेवा कर आयुक्तालय

GST Commissionerate, Ludhiana

एफ ब्लॉक, ऋषि नगर, लुधियाना

F-Block, Rishi Nagar, Ludhiana



गुजना का
अधिकार

मि० सं०: IV(16)Hqrs/Ldh/RTI-Appeal/ [REDACTED] 18-19 / 10160-61

दिनांक: 13.08.2018

Order-in-Appeal No. : 09 /RTI/GST/Ldh/18

(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:

Shri [REDACTED] (hereinafter referred to as "the appellant"), vide his application dated 30.04.2018, received in Central Public Information Officer (RTI), office- Ludhiana on 09.05.2018, through CPIO, O/o the Chief Commissioner of GST Zone, Chandigarh under the Right to Information Act, 2005 (hereinafter referred to as "the Act"), had desired certain information. The RTI was transferred to GST Division, Moga (hereinafter referred to as "the CPIO") under Section 6(3) of the Act vide CPIO letter C.No. IV(16)Hqrs/LDH/RTI/[REDACTED] 18-19/7070-92 dated 11.05.2018.

2. Grounds of Appeal:

2.1: That the CPIO has not given reply in r/o Point No. A to D of the RTI application transferred under Section 6(3) of the Act.

2.2: The Appellant, being aggrieved, has filed an appeal dated 11.07.2018 (received on 18.07.2018) on the ground that CPIO has not provided information in r/o Point No. A to D of his RTI application.

3. Reply to the Notice by CPIO:

3.1: A notice vide C.No. IV(16)Hqrs/ Ldh/RTI-Appeal [redacted] 09/18-19/9492 dated 20.07.2018 was issued to the CPIO to provide comments on the appeal filed by the Appellant. The CPIO vide his letter C.No. IV(16)Misc/RTI [redacted] 01/2017/163 dated 26.07.2018 has replied to the notice that the information called for is not kept in the order in which it has been sought by the appellant. The same has now been prepared and submitted, except category wise sanctioned strength which is not available with them (for ready reference).

4. Discussion and Findings:

4.1: I have carefully examined the appeal filed by the Appellant, CPIO's reply to notice and relevant provisions of the Act.

4.2: I find that the appellant was aggrieved for not replying in r/o Point No. A to D of the RTI application.

4.3: Now the CPIO has prepared the desired information.

In view of the above, I pass the following order.

5. Order:

I direct the CPIO to provide the information available directly to the appellant within 10 days from the receipt of this order.

[Signature] 13/8/18
(Parul Garg, IRS)
1st Appellate Authority (RTI)
o/c GST Commissionerate, Ludhiana.

Speed Post/copy to:-

- (i) Shri [redacted], [redacted]
- (ii) The Assistant Commissioner cum CPIO,
GST Division, [redacted]

केन्द्रीय माल एवं सेवाकर आसुचनालय
CENTRAL GST COMMISSIONERATE
लुधियाना/Ludhiana
18 JUL 2018
प्राप्ति संख्या 4272

Before 1st Appellate Authority RTI Act 2005,
CGST Commissionerate, Ludhiana

[Redacted text]

..... Appellant

Verses

The Central Public Information Officer,
CGST Division, Moga

..... Respondent

Appeal against non- supply of requested for information in respect of Point A to D vide letter dated 30.4.2018 under RTI Act 2005 by the CPIO, CGST Division, Moga conveyed by the said CPIO vide letter C.No.IV(16)Misc/HQRS/RTI/[Redacted]17/1153 dated 21.6.2018 received on 02.7.2018.

Facts of the case

1. That the appellant had requested for information under RTI Act 2005 vide his letter dated 30.4.2018 to the CPIO, CGST Zone, Chandigarh, which is enclosed as Annexure A, and is self-explanatory.
2. That the CPIO CGST Zone, Chandigarh transferred the said RTI application to the GST Commissioners' offices falling under the jurisdiction of CGST Zone, Chandigarh vide his letter C.No.16/Zone-14/RTI/2018/579 dated 4.5.2018 (received on 10.5.2018) (copy enclosed as Annexure B).
3. That in the said CGST Zone, office of the Commissioner, CGST Commissionerate, Ludhiana also falls, to whom the RTI application has been transferred as stated above and CPIO of the said Commissionerate has transferred the RTI application to CGST Division, Moga vide his letter C.No.IV(16)HQRS/LDH/TECH/LDH/[Redacted]9/7092 dated 11.05.18. (copy enclosed as Annexure-C)

S(RTI)
By
Sh Satinder Goyal,
Dro
22/7/18

[Handwritten signature]

4. That the said CPIO, CGST Division, Moga has not supplied the information in respect of Point A to D vide his letter **C.No.IV(16)Misc/HQRS/RTI/17/1153** dated 21.6.2018 received on 02.07.2018 (copy enclosed as Annexure D) drawing the attention to Section 7(9) of RTI Act 2005 has denied the information. Further, while doing so the CPIO has relied upon Apex Court Judgments' dated 03.10.12 in SLP No.27734/2011 in the case of Girish Ram Chander Deshpandy vs CIC.

Grounds of Appeal

That the basis of non-supply of requested for information is illegal and unwarranted as the CPIO has failed to appreciate the provisions contained in RTI Act, 2005 which defines information under Section 2(f) of the said Act as under:

"information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;

Apart, the Apex Court in **C.A. No.6454 of 2011**, arising out of **SLP(C) No. 7526 (2009)** in the case of **Central Board of Secondary Education &Anr V/s Ajitya Bandopadhyay & Others** have commented as under:

At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of 'information' and 'right to information' under clauses (f) and (j) of section 2 of the Act. If a public authority has any information in the form of data or analyzed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an applicant. A public authority is also not required to furnish information which require drawing of inferences and/or making of assumptions. It is also not required to provide 'advice' or 'opinion' to an applicant, nor required to obtain and furnish any 'opinion' or 'advice' to an applicant. The reference to 'opinion' or 'advice' in the definition of 'information' in section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act.

ii. That the CPIO has failed to appreciate that the Act or Rules do not prescribe any format of application for seeking information and to say that the information is not available in the format supplied by the appellant is not correct. The refusal made by the CPIO is therefore in violation to

information contained of information in RTI Act, 2005 and the CPIO has willfully denied the information.

- iii. That since the CGST department is a Central Govt. Body, there cannot be different norms in the same Zone as the purpose of formation of Zone office is to ensure uniformity (as discussed in para vi) but the CPIO under reference in refusing the information has shown ill will and he/she has willfully denied the information in violation to the provisions of RTI Act, 2005.
- iv. That the order dated 03.10.12 of the Hon'ble Supreme Court of India relied upon by the CPIO, while denying the information is not relevant at all in this case as the same is related to Section 8 of the RTI Act 2005 and whereas the information is being denied taking the reliance of Section 7(9) of the said Act. Even if these things are ignored, it is to mention here that in the said judgment, the issue involved was supply of information in respect of individual one, whereas the information sought for by the appellant is general in nature & is not relevant to any individual.
- v. That the issue of Section 7(9) of the RTI Act came before Kerala High Court in WP(C) 6532 of 2006(C) in the case of Treesa Irish V/s CPIO decided on 31.08.10. In this case when the standing counsel for the Public Service Commission raised a contention that if all the candidates apply for copies of answer papers, it would dis-proportionately divert the resources of the Public Authority and therefore disclosure of the same will be exempted under Section 7(9) of the Act. At this argument Hon'ble High Court said that the contention is misconceived and this Section does not even confer any discretion on a public authority to withhold information let alone any exemption from disclosure. It only gives discretion to the public authority to provide the information in a form other than the form in which the information is sought for. If the form in which it is sought for would disproportionately divert the resources of the public authority, in fact there is no provision in the Act to deny information on the ground that the supply of information would disproportionately divert the resources of public authority. The Hon'ble High Court said like this stressing upon Section 7(9) of RTI Act, 2005 which reads as under :

"(9) An information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question."

- vi. That CGST being the Central Govt. department is required to work uniformly and the purpose of creating of CGST Zone Chandigarh was also same. Thus the CPIO under reference has adopted excuse to non supply the information particularly when most of the Divisions of Ludhiana Commissionerate itself have supplied the information, in addition to supply of information. by the other Commissionerates too.
- vii. That in view of the above, the information was required to be supplied by the CPIO under the provisions of RTI Act, 2005.

Prayer

In view of the submissions vis-à-vis grounds of appeal above, it would be appreciated that non-supply of information by the CPIO was not within the purview of law i.e. RTI Act, 2005.



And thus it is prayed that the CPIO may be directed to supply the called for information as detailed in the RTI application dated 30.4.18, the subject under consideration and appeal may be allowed with costs accordingly.

Place : Jalandhar

Date : 11.07.18

~~XXXXXXXXXX~~
Appellant



कार्यालय प्रधान आयुक्त

OFFICE OF THE PRINCIPAL COMMISSIONER

वस्तु एवम् सेवा कर आयुक्तालय
GST Commissionerate, Ludhiana
एफ ब्लॉक, ऋषि नगर, लुधियाना
F-Block, Rishi Nagar, Ludhiana



सूचना का
अधिकार

मि० सं०.: IV(16)Hqrs/ Ldh/RTI-Appeal/[REDACTED]18-19/10158/59

दिनांक: 12.08.2018

Order-in-Appeal No. : 08 /RTI/GST/Ldh/18

(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:

Shri [REDACTED] (hereinafter referred to as "the appellant"), vide his application dated 30.04.2018, received in Central Public Information Officer (RTI), office- Ludhiana on 09.05.2018, through CPIO, O/o the Chief Commissioner of GST Zone, Chandigarh under the Right to Information Act, 2005 (hereinafter referred to as "the Act"), had desired certain information. The RTI was transferred to GST Division, Ludhiana-[REDACTED] (hereinafter referred to as "the CPIO") under Section 6(3) of the Act vide CPIO letter C.No. IV(16)Hqrs/LDH/RTI/[REDACTED]18-19/7070-92 dated 11.05.2018.

2. Grounds of Appeal:

2.1: That the CPIO has not given reply of the RTI application transferred under Section 6(3) of the Act.

2.2: The Appellant, being aggrieved, has filed an appeal dated 14.07.2018 (received on 18.07.2018) on the ground that CPIO has not provided information of his RTI application.

3. Reply to the Notice by CPIO:

3.1: A notice vide C.No. IV(16)Hqrs/ Ldh/RTI-Appeal/PKM-2/08/18-19/9491 dated 20.07.2018 was issued to the CPIO to provide comments on the appeal filed by the Appellant. The CPIO vide his letter C.No. IV(16)/RTI/GST/South/04/2018/8935 dated 26.07.2018 has replied to the notice that the information called for is not kept in the order in which it has been sought by the appellant. The same has now been prepared and submitted, except category wise sanctioned strength which is not available with them (for ready reference).

4. Discussion and Findings:

4.1: I have carefully examined the appeal filed by the Appellant, CPIO's reply to notice and relevant provisions of the Act.

4.2: I find that the appellant was aggrieved for not replying to RTI application.

4.3: Now the CPIO has prepared the desired information.

In view of the above, I pass the following order.

5. Order:

I direct the CPIO to provide the information available directly to the appellant within 10 days from the receipt of this order.

B 13/10/18
(Parul Garg, IRS)

1st Appellate Authority (RTI)

b/c GST Commissionerate, Ludhiana.

Speed Post/copy to:-

- (i) [REDACTED]
(ii) The Assistant Commissioner cum CPIO,
GST Division, Ludhiana [REDACTED]

10 Oct 2018

Before 1st Appellate Authority RTI Act 2005,

CGST Commissionerate, Ludhiana

केन्द्रीय माल एवं सेवाकर आयुक्तालय
CENTRAL GST COMMISSIONERATE
लुधियाना/Ludhiana
18 JUL 2018
प्राप्ति संख्या.....4273.....

[Redacted Name]
[Redacted Address]

..... Appellant

Verses

The Central Public Information Officer,

CGST Division South, Ludhiana

..... Respondents

Appeal against incomplete / non-supply of requested for information vide letter dated 30.04.2018 under RTI Act 2005 by the CPIO, Division South, Ludhiana vide letter No.IV(16)RTI/GST/S[Redacted]2018/8451 dated 12.06.18 received on 23.06.18.

Facts of the case:

1. That the appellant had requested for information under RTI Act 2005 vide his letter dated 30.04.18 to the CPIO, CGST Zone, Chandigarh, which is enclosed as Annexure A and is self-explanatory.
2. That the CPIO CGST Zone, Chandigarh transferred the said RTI application to the GST Commissioners' offices falling under the jurisdiction of CGST Zone, Chandigarh vide his letter C.No.16/Zone-14/RTI/2018/579 dated 04.05.18 (copy enclosed as Annexure B).
3. That in the said CGST Zone, office of the Commissioner, CGST Commissionerate, Ludhiana also falls, to whom the RTI application has been transferred as stated above and the CPIO of the said Commissionerate has transferred the RTI application to the above named respondent vide his letter C.No.IV(16)HQRS/LDH/TECH/LDH/[Redacted]18-19/7092 dated 11.05.18 received on 14.5.18 (copy enclosed as Annexure C) under Section 6(3) of RTI Act, 2005.
4. That the said respondent has not supplied the information in respect of RTI dated 30.4.18 although the reference is given in the letter No. No.IV(16)RTI/GST/S[Redacted]2018/8451 dated 12.06.18 covering two RTIs i.e. dated 29.4.18 and 30.4.18 but the reply given is related to dated 29.4.18 only.

Hence appeal under reference is being filed.

s/(r) [Signature]
By (enclosed as Annexure 'D')
Sh. Satinder Goyal,
[Signature]
23/7/18

[Signature]

Grounds of Appeal

i. That the basis of incomplete /non-supply of requested for information is illegal and unwarranted as the said CPIO has failed to appreciate the provisions contained in RTI Act, 2005. Section 7(1) of RTI Act read as under:

'Subject to the proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9'

- i. That non-supply of information tantamount to refusal and complaint also lies against CPIO under Section 18 of RTI Act, 2005. However, appeal is only being filed under Section 19 of RTI Act, 2005.
- ii. That in view of the above, the information was required to be supplied completely by the CPIO under the provisions of RTI Act, 2005, as mentioning of reference does not serve the purpose.

Prayer

In view of the submissions vis-à-vis grounds of appeal above, it would be appreciated that incomplete/ non-supply of information by the CPIO is not within the purview of law i.e. RTI Act, 2005 and tantamounts to the violation of the Act. And thus it is prayed that the CPIO may be directed to supply the called for information as detailed in the RTI application dated 30.04.18 the subject under consideration and appeal may be allowed with costs accordingly.

Place : Jalandhar

Date : 14.07.2018

~~_____~~

 Appellant



सत्यमेव जयते

कार्यालय प्रधान आयुक्त

OFFICE OF THE PRINCIPAL COMMISSIONER

वस्तु एवम् सेवा कर आयुक्तालय

GST Commissionerate, Ludhiana

एफ ब्लॉक, ऋषि नगर, लुधियाना

F-Block, Rishi Nagar, Ludhiana



पञ्जाब का
अधिकार

मि० सं०: IV(16)Hqrs/ Ldh/RTI-Appeal/ [REDACTED]/18-19

10156-57

दिनांक: 13.08.2018

Order-in-Appeal No. : 07 /RTI/GST/Ldh/18

(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:

Shri [REDACTED] ar, (hereinafter referred to as "the appellant"), vide his application dated 30.04.2018, received in Central Public Information Officer (RTI), office- Ludhiana on 09.05.2018, through CPIO, O/o the Chief Commissioner of GST Zone, Chandigarh under the Right to Information Act, 2005 (hereinafter referred to as "the Act"), had desired certain information. The RTI was transferred to GST Division, Ludhiana [REDACTED] (hereinafter referred to as "the CPIO") under Section 6(3) of the Act vide CPIO letter C.No. IV(16)Hqrs/LDH/RTI/[REDACTED]18-19/7070-92 dated 11.05.2018.

2. Grounds of Appeal:

2.1: That the CPIO has not given reply in r/o Point No. A to C of the RTI application transferred under Section 6(3) of the Act.

2.2: The Appellant, being aggrieved, has filed an appeal dated 15.07.2018 (received on 18.07.2018) on the ground that CPIO has not provided information in r/o Point A to C of his RTI application.

3. Reply to the Notice by CPIO:

3.1: A notice vide C.No. IV(16)Hqrs/ Ldh/RTI-Appeal [redacted] 8-19/9493 dated 20.07.2018 was issued to the CPIO to provide comments on the appeal filed by the Appellant. The CPIO vide his letter C.No. IV(16)Tech/RTI/[redacted] 5/2016/594 dated 25.07.2018 has replied to the notice that the information called for is not kept in the order in which it has been sought by the appellant. The same has now been prepared and submitted, except category wise sanctioned strength which is not available with them (for ready reference),

4. Discussion and Findings:

4.1: I have carefully examined the appeal filed by the Appellant, CPIO's reply to notice and relevant provisions of the Act.

4.2: I find that the appellant was aggrieved for not replying the Point No. A to C of RTI application.

4.3: Now the CPIO has prepared the desired information.

In view of the above, I pass the following order.

5. Order:

I direct the CPIO to provide the information available directly to the appellant within 10 days from the receipt of this order.

o/c
13/8/18
(Parul Garg, IRS)
1st Appellate Authority (RTI)
GST Commissionerate, Ludhiana.

Speed Post/copy to:-

- (i) Shri [redacted], [redacted]
- (ii) The Assistant Commissioner cum CPIO,
GST Division, Ludhiana [redacted]

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केन्द्रीय माल एवं सेवाकर आयोग
CENTRAL GST COMMISSIONERATE
लुधियाना/Ludhiana
18 JUL 2018
प्राप्ति संख्या 4274

Before 1st Appellate Authority RTI Act 2005,
CGST Commissionerate, Ludhiana

[Redacted]

..... Appellant

Verses

The Central Public Information Officer,
CGST Division East, Ludhiana

..... Respondents

Appeal against incomplete / non-supply of requested for information in respect of Point A to C vide letter dated 30.04.2018 under RTI Act 2005 by the CPIO, Division East, Ludhiana vide letter No.IV(16)Tech/RTI/ [Redacted] /16/2016/963 dated 14.06.18 received on 21.06.18.

Facts of the case

1. That the appellant had requested for information under RTI Act 2005 vide his letter dated 30.04.18 to the CPIO, CGST Zone, Chandigarh, which is enclosed as Annexure A, and is self-explanatory.
2. That the CPIO CGST Zone, Chandigarh transferred the said RTI application to the GST Commissioners' offices falling under the jurisdiction of CGST Zone, Chandigarh vide his letter C.No.16/Zone-14/RTI/2018/579 dated 04.05.18 (copy enclosed as Annexure B).
That in the said CGST Zone, office of the Commissioner, CGST Commissionerate, Ludhiana also falls, to whom the RTI application has been transferred as stated above and the CPIO of the said Commissionerate has transferred the RTI application to the above named respondent vide his letter C.No.IV(16)HQRS/LDH/TECH/LDH/[Redacted] 19/7092 dated 11.05.18 received on 14.5.18 (copy enclosed as Annexure C) under Section 6(3) of RTI Act, 2005.
4. That the said respondent has not supplied the information in respect Point A to C of RTI dated 30.4.18 vide letter No.IV(16)Tech/RTI/[Redacted] 2016/963 dated 14.06.18 received on 21.06.18 stating that no post has been sanctioned on category basis.

L (enclosed as Annexure 'B')

S(RTI)
Pg
SK Saini
23/07/18

[Redacted signature]

Grounds of Appeal

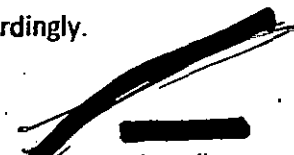
- i. That the basis of incomplete /non-supply of requested for information is illegal and unwarranted as the said CPIO has failed to appreciate the provisions contained in RTI Act, 2005. Section 7(1) of RTI Act read as under:
'Subject to the proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9'
- ii. That incomplete/ non-supply of information tantamount to refusal and complaint also lies against CPIO under Section 18 of RTI Act, 2005. However, appeal is only being filed under Section 19 of RTI Act, 2005.
- iii. That the argument taken by the CPIO under reference is baseless and is not based upon facts as most of the Divisions under the CGST Commissionerate, Ludhiana has supplied the information correctly.
- iv. That CGST being the Central Govt. department is required to work uniformly and the purpose of creating of CGST Zone Chandigarh was also same. Thus the CPIO under reference has adopted excuse to non supply the information particularly when most of the Divisions of Ludhiana Commissionerate itself have supplied the information, in addition to supply of information. by the other Commissionerates too.
- v. That in view of the above, the information was required to be supplied completely by the CPIO under the provisions of RTI Act, 2005.

Prayer

In view of the submissions vis-à-vis grounds of appeal above, it would be appreciated that incomplete/ non-supply of information by the CPIO is not within the purview of law i.e. RTI Act, 2005 and tantamounts to the violation of the Act. And thus it is prayed that the CPIO may be directed to supply the called for information as detailed in the RTI-application dated 30.04.18 the subject under consideration and appeal may be allowed with costs accordingly.

Place : Jalandhar

Date : 15.07.2018


Appellant

GOODS & SERVICES TAX COMMISSIONERATE
F-BLOCK, RISHI NAGAR, LUDHIANA



C.No.: IV(16)Hqrs/LDH/RTI appeal/[REDACTED]/18-19/3257-72

दिनांक/08.08.2018

Order-in-Appeal No. : 06/RTI/GST/Ldh/18

(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:

Sh. [REDACTED] C. [REDACTED], Ludhiana, (hereinafter referred to as "the appellant"), vide his RTI application dated 03.06.2018, received in Central Public Information Officer (RTI), office- Ludhiana on 11.06.2018 (hereinafter referred to as "the CPIO"), through Nodal Officer, O/o the Director General, Goods & Services Tax, New Delhi under the Right to Information Act, 2005 (hereinafter referred to as "the Act"), had desired certain information.

That the CPIO vide his office letter C.No. IV(16)Hqrs/Ldh/RTI/[REDACTED]/18-19/9080 dated 09.07.2018 provided certain information. The Appellant, being not satisfied with the reply of CPIO, has filed appeal vide e mail dated 12.07.2018.

2. Grounds of Appeal:

The appellant alleged that reply given by the CPIO vide his letter C.No. IV(16)Hqrs/Ldh/RTI/[REDACTED]/18-19/9080 dated 09.07.2018 is of Interim/Advance Reward, but in RTI application he has sought the present status of the Final Reward paid or to be paid in the clubbed cases of M/s [REDACTED] & M/[REDACTED]. The appellant has filed appeal for non supply of information regarding status of final reward and to present the case file including present correspondence to the highest authority of this office i.e. the Principal Commissioner.

3. Reply to the Notice:

A notice vide C.No. IV (16) Hqrs/Ldh/RTI Appeal/[REDACTED]/18-19/9396 dated 18.07.2018 was issued to the CPIO, GST Commissionerate, Ludhiana to provide comments on the appeal filed by the Appellant. The CPIO reply based on the inputs received from Deputy Commissioner (Preventive), GST Commissionerate, Ludhiana is as under:-

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- i) As per 335-J Register maintained in the relevant branch, the cases have been booked in the month of September, 2003 in respect of M/s [redacted] and M/s [redacted] and accordingly entries have been made in the said register. The said register is silent about the reward sanctioned to the informer.
- ii) One case file of M/s [redacted] has been traced out. However, no correspondence regarding reward to informer is available in the said file. The case file of M/s [redacted] is not traceable. However, the efforts are being made to trace out the file.
- iii) As per reward register available, a reward of Rs. 16793/- has been sanctioned to the informer in respect of M/s [redacted]. However, there is no mention as to whether it is final or interim award. There is no entry regarding any reward in respect of M/s [redacted].

4. Discussion and Findings:

I have carefully examined the appeal filed by the Appellant, the reply of the CPIO, reply to the notice and relevant provisions of the Act.

From the facts available on records, I observe that the appellant has filed appeal for non supply of information regarding status of final reward.

In this regard, submissions from Preventive branch have been received as above.


I also observe that the appellant has not sought information regarding presenting the case file including present correspondence to the highest authority of this office i.e. the Principal Commissioner in the original RTI application. Thus, this portion of the appeal need not to be discussed under the current appeal.

Now, going by the request of the appellant regarding supply of information which has not been provided by the CPIO, I pass the following order.

5. Order:

In view of above, I hereby direct the CPIO to speed up the process of tracing out all the relevant files and thereby provide specific information to the appellant at the earliest.

The appeal filed by the appellant is disposed off accordingly.


 (Parul Garg, IRS)
 1st Appellate Authority (RTI)
 GST Commissionerate, Ludhiana.

Speed Post:-

- i) Sh. H. [redacted], [redacted] Ludhiana
- ii) The CPIO, GST Commissionerate, Ludhiana.



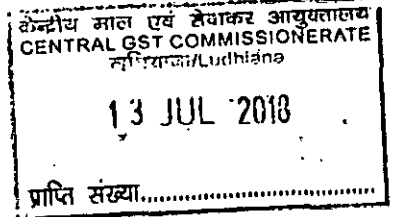
Ludhiana GST Technical <gstldhtech@gmail.com>

Fwd: Final Reward in the clubbed cases of Ms. [REDACTED] & Ms. [REDACTED] Dyers, Ludhiana.

1 message

GSTICU LDH <gsticuldh@gmail.com>
To: Ludhiana GST Technical <gstldhtech@gmail.com>

Thu, Jul 12, 2018 at 10:26 AM



Regards,

GST-Implementation Coordination Unit
CGST Commissionerate Ludhiana

----- Forwarded message -----

From: [REDACTED] <[REDACTED]>
Date: Wed, Jul 11, 2018 at 5:21 PM
Subject: Final Reward in the clubbed cases of Ms. [REDACTED] & Ms. [REDACTED], Ludhiana.
To: gsticuldh@gmail.com

To, The 1st. Appellate Authority, Ms. Parul Garg IRS, MADEM, We are in receipt of your office letter no.IV (16)Hqrs/LDH/RTI/[REDACTED] 18-19/9080 dtd 09-07-2018 in reply of my email query dtd 2/06/18. In my letter I sought the present status of the Final Reward paid or to be paid in the above clubbed cases. Please note the word FINAL REWARD is there twice in my letter dtd 2/6/18 & in the present appeal, whereas the information regarding the Interim/Advance Reward was given in your office reply. I can't believe that a worthy officer of उप आयुक्त-कम-सह केन्द्रीय जन सूचना अधिकारी can't find the difference in between the Advance Reward & the Final Reward. Please provide me the present status of the Final Reward to be paid to the informer. I also request you to present the case file including present correspondence to the highest Authority of your office i.e. The Principal Commissioner. In the hope of early action, I remain,
Yours Faithfully [REDACTED], Ludhiana-141008. M.no. 7888373270.

DC (Pres)
BS

Report (Pres)
on file for
dks
13/07/18

Pertains to
RTI Appeal.
RGS
16/07/18
super (Pres)



सत्यमेव जयते

कार्यालय प्रधान आयुक्त
OFFICE OF THE PRINCIPAL COMMISSIONER
वस्तु एवम् सेवा कर आयुक्तालय
GST Commissionerate, Ludhiana
ऍफ ब्लॉक, ऋषि नगर, लुधियाना
F-Block, Rishi Nagar, Ludhiana



सुपना का
अधिकार

मि० सं०: IV(16)Hqrs/Ldh/RTI-Appeal/[REDACTED] 18-19/१९५३-५५

दिनांक: 6 .07.2018
३

Order-in-Appeal No. : 05 /RTI/GST/Ldh/18

(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:

Shri [REDACTED] (hereinafter referred to as "the appellant"), vide his application dated 30.04.2018, received in Central Public Information Officer (RTI), office- Ludhiana on 09.05.2018, through CPIO, O/o the Chief Commissioner of GST Zone, Chandigarh under the Right to Information Act, 2005 (hereinafter referred to as "the Act"), had desired certain information. The RTI was transferred to GST Divisions [REDACTED] (hereinafter referred to as "the CPIO") under Section 6(3) of the Act vide CPIO letter C.No. IV(16)Hqrs/LDH/RTI/[REDACTED]/7070-92 dated 11.05.2018 as the information was closely related to that office.

2. Grounds of Appeal:

2.1: That the CPIO has not given reply to RTI application transferred as warranted under the Act.

2.2: The Appellant, being aggrieved, has filed an appeal dated 10.07.2018 (received on 13.07.2018) on the ground that CPIO has not provided information of his RTI application.

3. Reply to the Notice by CPIO:

3.1: A notice vide C.No. IV(16)Hqrs/ Ldh/RTI-Appeal [redacted] 18-19/9286-87 dated 13.07.2018 was issued to the CPIO to provide comments on the appeal filed by the Appellant. The CPIO vide his letters C.No. IV(16)30/GST/RTI/Misc [redacted] /2017/1050 dated 23.07.2018 and IV(Tech)CGST/RTI/[redacted] 16/2018/487 dated 24.07.2018 has submitted the information, except category wise sanctioned strength which is not available with them, as sought by the appellant.

4. Discussion and Findings:

4.1: I have carefully examined the appeal filed by the Appellant, the CPIO's reply to notice and relevant provisions of the Act.

4.2: I find that the appellant was aggrieved for not providing the information by the CPIO in r/o RTI application dated 30.04.2018.

4.3: Now the CPIO has submitted the desired information (copy attached for ready reference). In view of the above, I pass the following order.

5. Order:

I direct the CPIO to provide the information available directly to the appellant within 10 days from the receipt of this order.

ok
6/8/18
(Parul Garg, IRS)
1st Appellate Authority (RTI)
GST Commissionerate, Ludhiana.

Speed Post/copy to:-

- (i) [redacted]
- (ii) The CPIO (RTI),
GST Division, [redacted]

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केन्द्रीय माल एवं सेवाकर आयुक्तालय
CENTRAL GST COMMISSIONERATE
लुधियाना/Ludhiana
13 JUL 2018
प्राप्ति संख्या..... 4205

Before 1st Appellate Authority RTI Act 2005,
CGST Commissionerate, Ludhiana

[REDACTED]
[REDACTED]

..... Appellant

Versus

- 1.The Central Public Information Officer,
CGST Division, Derabassi-I.
- 2.The Central Public Information Officer,
CGST Division, Derabassi-II
- 3.The Central Public Information Officer,
CGST Division, Mohali-I
- 4.The Central Public Information Officer,
CGST Division, Mohali-II
- 5.The Central Public Information Officer,
CGST Division, Patiala-I
- 6.The Central Public Information Officer,
CGST Division, Patiala-II
- 7.The Central Public Information Officer,
CGST Division, Rajpura
- 8.The Central Public Information Officer,
CGST Division, Ropar

Sh. Harjeet Singh
S (RTI)
Pg

..... Respondents

[Handwritten signature]

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Appeal against non-supply of requested for information vide letter dated 29.04.2018 under RTI Act 2005 by the above named respondents.

Facts of the case

- 1. That the appellant had requested for information under RTI Act 2005 vide his letter dated 29.04.18 to the CPIO, CGST Zone, Chandigarh, which is enclosed as Annexure A, and is self-explanatory.
- 2. That the CPIO CGST Zone, Chandigarh transferred the said RTI application to the GST Commissioners' offices falling under the jurisdiction of CGST Zone, Chandigarh vide his letter C.No.16/Zone-14/RTI/2018/566 dated 04.05.18 (copy enclosed as Annexure B).
- 3. That in the said CGST Zone, office of the Commissioner, CGST Commissionerate, Ludhiana also falls, to whom the RTI application has been transferred as stated above and the CPIO of the said Commissionerate has transferred the RTI application to the above named respondents vide his letter C.No.TV(16)HQRS/LDH/TECH/ [REDACTED] 19/7068 dated 11.05.18 (copy enclosed as Annexure C) under Section 6(3) of RTI Act, 2005.
- 4. That the said respondents have not supplied the information till date inspite of passing of a period more than 30 days as prescribed under RTI Act, 2005. Hence appeal under reference is being filed.

Grounds of Appeal

i. That the basis of non-supply of requested for information is illegal and unwarranted as the said CPIOs have failed to appreciate the provisions contained in RTI Act, 2005. Section 7(1) of RTI Act read as under:

'Subject to the proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9'

ii. That non-supply of information tantamounts to refusal and complaint also lies against CPIOs' under Section 18 of RTI Act, 2005. However, appeal is only being filed under Section 19 of RTI Act, 2005.

iv. That in view of the above, the information was required to be supplied by the CPIOs' under the provisions of RTI Act, 2005.

Prayer

In view of the submissions vis-à-vis grounds of appeal above, it would be appreciated that non-supply of information by the CPIOs' is not within the purview of law i.e. RTI Act, 2005 and tantamounts to the violation of the Act. And thus it is prayed that the CPIOs' may be directed to supply the called for information as detailed in the RTI application dated 29.04.18 the subject under consideration and appeal may be allowed with costs accordingly.

Place : Jalandhar

Date : 09.07.2018

[REDACTED]
[REDACTED]
Appellant