

RTI  
from RTI

RTI Application form

Dated: 06/03/18

To  
The Public Information Officer,  
Assis. Commr. Commissioner,  
Office of the Commissioner of Central Excise Kolkata-II  
Custom House,  
M.S. Building, 2nd Floor,  
15/1 Strand Road Kolkata-700 001

Sub: Request for information under RTI Act

Dear Sir,

With reference to the subject cited above, I request you to furnish the following information vide RTI Application I, PANKAJ KEDIA, S/O JAI PRAKASH KEDIA resident of 35 H.P. DUTTA LANE, KOLKATA-700 033, Mobile No. 8697130370 wish to seek information under the RTI Act, 2005. I, hereby, declare that I am a Citizen of India and information sought in this application will be used in the best of the Public Interest. The particular/details of Information/Documents asked for is given below:-

1. Pls Provide following information related to  
C.No. V(15)31/CE/Kol-IV/Adjn/2016/21712T DATED 06/12/16  
Order No. 16/JC/CGST & CX/HWH/ADJN/2018 DATED 17/01/18
  - a) Provide copies of following information/paper related to Bedanta Petrochemicals (C.Excise No. BCMPS3553BEM001)
    - a. Name of Inspector, Supritendent and Assistant Commissioner approved the Registration of above firm.
    - b. Inspection report, appraisal report and papers depending on which the Central excise number allotted to the above firm.
  - b) Whether all the requisite documents needed to obtain a Central Excise Registration as notified in Central Excise Act & Provision are presented by Proprietor of Bedanta Petrochemical and if so Pls provide a copy of the same.

- c) Pls provide copy of monthly/quarterly report of inspector/superintendent to the Asst Commissioner /Jt Commissioner from date of registration till date of cancellation about progress of the above mentioned firm Bedanta Petrochemical(BCMPS3553BEM001) and its operation.
- d) Does taking Commercial Electric connection in the name of Firm or proprietor is not one of the mandatory condition while obtaining Central Excise Number for manufacturing of a product if yes then provide copy of details of such connection of Bedanta Petrochemical (BCMPS3553BEM001) and observation /report of inspector /superintendent of the same charge with this regard.
- e) As Per statement of Sri Ranjit Singh Proprietor of Bedanta Petrochemicals dated 07/01/2013 before suptd Central Excise in Page No. 6 & 7 he stated that before receiving the summon (C.no. v(12)28/CE/AE/Kol-IV/SKU/12/15111-T DT 17.12.2012 (1) he never received any letter in his name (2) he never visited central excise office (3) he never called by any officer of central Excise or no central Excise officer ever met him . If it is so What are the reason either inspector or Superintendent of charge never met the proprietor who has set up a factory either at the time of giving registration or during the tenure after registration. Pls specify the reason and also is it the common system in regular phenomena of not meeting the proprietor /owner of a Company/Firm setting up a factory and also after approval during tenure of running ?
- f) Pls Provide information about current posting of Superintendent (Anti - Evasion) Sri A.Sarkar issued summon C.No. v(12)09/SKU/CE/AE/Kol-IV/16/Part-VI/10079T dated 15/07/2016 .
- g) Pls provide reason of Sri A.Sarkar Suptd Anti-Evasion taking statement of only Branch Manager of Uco Bank (having account in name of Bedanta Petrochemicals) but not the Branch Manager of other Bank account like Axis Bank (account no. 911020066002715).

h) Pls provide the information that without verification from the charge of Bedanta Petrochemicals how the CENVAT credit being allowed to the beneficiaries. And whether the accounts of Beneficiaries being audited to analyse the transaction of Bedanta Petrochemicals with all of them and if yes pls provide the audit report.

I have deposited the required RTI Fee amount of Rs.10/- (Rupees Ten only) towards application fee Indian Postal Order favouring CPIO, Kolkata, Payable at Kolkata bearing No. 23F 136589. Further, I also undertake to pay any additional fees/charges(if applicable) as prescribed under the RTI Act.

Kindly provide the information as soon as possible and within time frame as stipulated under RTI Act, 2005.

Dated: 06/03/2018

Pankaj Kumar Kedia  
PANKAJ KUMAR KEDIA  
35, H.P. DUTTA LANE  
KOLKATA-700 033



NATION  
TAX  
MARKET

RTI MATTER/MOST URGENT  
BY SPEED POST

भारत सरकार GOVERNMENT OF INDIA  
OFFICE OF THE COMMISSIONER OF CENTRAL TAX, HOWRAH GST COMMISSIONERATE  
एम.एस. बिल्डिंग, 15/1, स्ट्रैंड रोड, कोलकाता- 700001  
M.S. BUILDING, 1<sup>st</sup> floor, 15/1, STRAND ROAD, KOLKATA- 700001  
दूरभाष सं/PHONE NO. 033-2262-8490

C. No. IV (16)96/RTI/CGST/Hwh/PK/2018/11726A

Date: 04.04.2018

To  
Shri Pankaj Kumar Kedia  
35, H.P. Dutta Lane  
Kolkata- 700 033  
Sir,

Sub: - Furnishing of information under RTI Act, 2005.

Please refer to your RTI application dated 06.03.2018, which has been received at this office on 07.03.2018 directly through the speed post.

The desired information as sought for by you in your RTI application is furnished below:

Point No. 1(a)

- (a) : Since the Inspector does not allot registration number, the question of furnishing the name of the Inspector does not arise. However Name of the Assistant Commissioner who allotted registration is Sri A.K. Das & the Superintendent was Sri Manabendra Roychowdhury.
- (b) The different reports as sought for by you numbering 11(eleven)pages, as delineated against Point No.1(b), will be provided on receipt of the requisite fees from you as stipulated under the RTI Act 2005.

Point No.1 (b)

The following documents are available with the department copy of which can be provided on payment of requisite fees.

1. A-1 Form, -3( Three) Sheets
2. Trade Registration Certificate -1 ( one) Sheet
3. Copy of PAN -1( one ) Sheet
4. Copy of Notarized contract/Agreement of owner and prop. - 3 sheets
5. Copy of Trade Licence - 1 Sheet
6. Physical Verification Report -2 Sheets

Point No.1 (c)

So far as this point is concerned, it is for your information that no such report in the statutory form to the extent of "progress of Bedanta Petrochemicals " were being provided by the Inspector/Superintendent, monthly/quarterly basis to the Assistant Commissioner/Joint Commissioner.

Point No.1 (d)

As regards this point, attention is invited to the provisions of Section 2(f) of the Right to Information Act 2005 which, inter-alia, stipulates that A combined reading of Section 2(f), 2(i) & 2(j) ibid. would show that a citizen is entitled for disclosure of information which is in material form with a Public Authority and 'information' and the right to seek does not include opinions, explanations etc. Hence, the CPIO is not in a position to provide any information/documents.

Point No. 1(e)

It may be stated that the CPIO is not supposed to clarify reasons in the light of the provisions of Section 2(f) of Right to Information Act, 2005 wherein, inter-alia, it has been explicitly set out that seeking clarification, justification, reasons for administrative action is not contemplated within the expression "information"

Point No. 1(f)

The CPIO is not in a position to provide this information since full name of Sri A. Sarkar, Superintendent is not mentioned in the application.

Point No. 1(g)

It may be stated that the CPIO is not supposed to clarify reasons in the light of the provisions of Section 2(f) of Right to Information Act, 2005 wherein, inter-alia, it has been explicitly set out that seeking clarification, justification, reasons for administrative action is not contemplated within the expression "information"


Point No. 1(h)

It may be stated that the CPIO is not supposed to clarify reasons in the light of the provisions of Section 2(f) of Right to Information Act, 2005 wherein, inter-alia, it has been explicitly set out that seeking clarification, justification, reasons for administrative action is not contemplated within the expression "information"

Now, in order to send copies of the aforesaid documents as sought for by you in your RTI application, you are requested to pay Rs.22/- (i.e. Rs. 2/- per page x 11 ) in favour of Assistant Chief Accounts Officer, Central Tax, Howrah GST Commissionerate, in the form of IPO or Demand Draft or Cash In terms of the Right to Information (Regulation of Fee & Cost) Rules 2005.

If you are aggrieved or dissatisfied with the reply, you are at liberty to prefer First Appeal within the stipulated time i.e. 30 (thirty) days from the date of receipt of this reply before Shri **Sydney D'Silva**, Joint Commissioner & 1<sup>st</sup> Appellate Authority under RTI Act, 2005, Central Tax, Howrah GST Commissionerate, M.S. Building (6th Floor), 15/1 Strand Road, Kolkata - 700 001.

Yours sincerely,

 04/04/18

(Bidyut Talukdar)

CPIO & ASSISTANT COMMISSIONER,  
CENTRAL TAX,  
HOWRAH GST COMMISSIONERATE

**RTI MATTER**

भारत सरकार / GOVERNMENT OF INDIA

केन्द्रीय कर, होवरा जीएसटी कमिशनर के आयुक्त का कार्यालय

OFFICE OF THE COMMISSIONER OF CENTRAL TAX, HOWRAH GST  
COMMISSIONERATE

एम.एस. बिल्डिंग, 15/1, स्ट्रैंड रोड, कोलकाता- 700001

M.S. BUILDING, 1<sup>st</sup> floor, 15/1, STRAND ROAD, KOLKATA- 700001

दूरभाष सं/PHONE NO. 033-2262-8490

ORDER IN APPEAL NO.01/01/2018 DDate: 08.05.2018**PASSED BY:** Shri. Sydney D'Silva,

Joint Commissioner of Central Tax

&amp;

1<sup>st</sup> Appellate Authority of Central Tax, Howrah CGST

Commissionerate, Custom House, M.S. Building,

6th Floor, 15/1 Strand Road, Kolkata-700 001.

**Brief facts of the case**

**Subject:** Appeal filed under Section 19(1) of the RTI Act, 2005 by Shri Pankaj Kumar Kedia, 35, H.P. Dutta Lane, Kolkata-700033 against reply furnished by the CPIO, Howrah GST Comm'te under letter C.No.IV(16)96/RTI/CGST/HWH/P.K/2018/1726-A dt.04.04.2018.

I. The appellant submitted an application dated 06.03.2018 seeking certain information pertaining to C.No.V(15)31/CE/Kol-IV/Adjn/2016/21712T dated 06.12.16 to the CPIO & Assistant Commissioner, Howrah CGST Comm'te. The point-wise information, answer and grounds of appeal are depicted herein below:

(a) **Query No. 1(a) of the RTI application:** Please provide following information related to C.No. V(15)31/CE/Kol-IV/Adjn/2016/21712T dated 06.12.16 Order No. 16/JC/CGST & CX/HWH/ADJN/2018 dated 17.01.18.

Provide copies of following information/paper related to Bedanta Petrochemicals (C. Excise No. BCMPS3553BEM001)

- Name of Inspector, Superintendent and Assistant Commissioner approved the Registration of above firm.
- Inspection report, appraisal report and papers depending on which the Central excise number allotted to the above firm.

**Reply of the CPIO:** Since the Inspector does not allot registration number, the question of furnishing the name of the Inspector does not arise. However, Name of the Assistant Commissioner who allotted registration is Sri A.K. Das & the Superintendent was Sri Manabendra Roychowdhury.

**Grounds of Appeal:** Because in point No. 1(a) Name of Inspector/ Superintendent/Assistant Commissioner asked but the name of Inspector is not provided.

(b) **Information/Query 1(d):** Does taking commercial electric connection in the name of the firm or proprietor is not one of the mandatory conditions while obtaining Central Excise No. for manufacturing of a product, if yes, then provide copy of details of such connection of Bedanta Petrochemicals and observation/report of Inspector/Superintendent of the same charge with this regard.

**Reply of the CPIO:** As regards this point, attention is invited to the provisions of Section 2(f) of the Right to Information Act 2005 which, inter-alia, stipulates that a combined reading of Section 2(f), 2(i) & 2(j) ibid. would show that a citizen is entitled for disclosure of information which is in material form with a Public Authority and "information" and the right to seek does not include opinions, explanations etc. Hence, the CPIO is not in a position to provide any information/documents.

**Grounds of appeal:** It is asked about statutory provision/rules/compliances under Act enacted by Government of India and it comes under definition of "Information" as enacted by Parliament of India but CPIO choose not to reply.

(c) **Information/Query 1(f):** Please provide information about current posting of Superintendent (AE) Sri A. Sarkar issued summon No.V(12)09/SKU/CE/AE/Kol-IV/16/Part-VI/10079T dated 15.07.2016.

**Reply of the CPIO:** The CPIO is not in a position to provide this information since full name of Sri A. Sarkar, Superintendent is not mentioned in the application.

**Grounds of appeal:** It is sought information about current positioning of a Government Employee (referring name as mentioned in a summon, which is a valid Government document) But CPIO deny to provide the information stating name is incomplete whereas in reply to point 1(a) (a) CPIO himself mentioning name of a Government employee in short form (not the full name).

(d) **Information/Query 1(h):** Please provide the information that without verification from the charge of Bedanta Petrochemicals, how the CENVAT credit being allowed to the beneficiaries. And whether the accounts of beneficiaries being audited to analyse the transactions of Vedanta Petrochemicals with all of them and if yes please provide the audit report.

**Reply of the CPIO:** It may be stated that the CPIO is not supposed to clarify reasons in the light of the provisions of Section 2(f) of Right to Information Act, 2005 wherein, inter-alia, it has been explicitly set out that seeking clarification, justification, reasons for administrative action is not contemplated within the expression "information".



**Grounds of appeal:** In point No. 1(h) second part it was asked about conducting Audit of beneficiaries but CPIO treated this Important question not to reply with wrong interpretation of the definition of "Information" as mentioned in RTI Act 2005.

**II.** Aggrieved with the reply dated 04.04.18, the appellant has preferred the instant appeal only in respect of Point No.1 (a),1(d),1(f) & 1(h) of his application.

The Appellant has thus prayed for the following relief:

Order for supply of all papers as sought which are very much needed to be disclosed and make available under RTI Act 2005.

**III.** An opportunity for Personal Hearing was granted to the appellant on 19.04.2018 but owing to certain urgent assignments of the First Appellate Authority, the hearing was postponed telephonically and consequently re-fixed on 25.04.2018 at 1.30PM. Accordingly, the appellant appeared on the said date before the First Appellate Authority and submitted his written submission. In the said submission, the instant appellant, in addition to his earlier grounds of appeal, has made further submissions in support of his defense which are illustrated hereinbelow:

Additional Grounds of Appeal in his written submission on Point No.1(a): CPIO suppressed the information whereas queries must be answered when information is available.

Additional Grounds of Appeal in his written submission on Point No.1(d): CPIO denied the information citing provisions of Section 2(f) of the Right to Information Act 2005. The appellant, inter-alia, contended that the definition under Section 2(f)ibid shows that an applicant under Section 6 of the RTI Act can get any information which is already in existence and accessible to the public authority under law.

Additional Grounds of Appeal in his written submission on Point No.1(f) : The appellant claimed that the information related to Govt. employee with mentioning the name as written by the officer in summons/orders/communication not once but repeatedly and any information about a govt. employee who comes under the definition of public servant needs to be disclosed. He further stated that not only current posting but even if information sought about asset too to be disclosed without any exemption and logic.

Additional Grounds of Appeal in his written submission on Point No.1(h) : CPIO denied the information citing provisions of Section 2(f) of the Right to Information Act 2005. The appellant, inter-alia, contended that the definition under Section 2(f)ibid shows that an applicant under Section 6 of the RTI Act can get any information which is already in existence and accessible to the public authority under law

Over and above, the appellant has placed his reliance on the following judgment of the Hon'ble CICs in respect of his contention which has been elaborated in Para – IV of this order:



1. CIC/SG/A/2008/00347+00277/1554
2. CIC/SS/A/2012/003762
3. CIC/DSESJ/A/2016/305423 dated 16.10.2017.

#### **IV. Discussion & findings**

(a) I have gone through the case records, the appeal dated 07.04.2018 vis-à-vis the replies dated dt.04.04.2018 furnished by the CPIO & Assistant Commissioner, Central Tax, Howrah CGST Commissionerate pertaining to the RTI application dated 06.03.2018 filed by the instant appellant and subsequent written submission dated 19.04.18 of the appellant at the time of hearing. In the instant case, I find that out of the 8(eight) points of information i.e. 1(a) to h), the appellant has preferred appeal against Point No.1(a),1(d), 1(f) & 1(h) only. As a matter of fact, the dispute of contention revolves around non supply of information/document as sought for by the appellant in his application dated 06.03.2018 in respect of the Show Cause Notice issued under C.No. V(15)31/CE/Kol-IV/Adjn/2016/21712T dated 06/12/2016.

(b) In the instant case, I intend to discuss the appeal point-wise.

**(i) Point of appeal No.1 (a):** As far as this Point of the subject RTI application is concerned, I find that the CPIO has taken the right stand by way of furnishing the name of the Superintendent and Assistant Commissioner in the matter of issuance of Central Excise Registration to Bedanta Petrochemicals(BCMPS3553BEM001) inasmuch as no part is played by an Inspector in the allotment of registration nor the name of Inspector is available in the respective PV report available in ACES, ipso-facto, the question of furnishing the name of the Inspector does not arise. Thus, the CPIO has acted rightly and the contention of the appellant in this premise is untenable and devoid of any merit.

**(ii) Point No.1 (d):** Registration of an assessee under Central Excise is governed by rule 9 of the Central Excise Rules, 2002 wherein prima facie it appears that obtaining electrical connection is not one of the mandatory conditions for obtaining registration. However, the CPIO should have examined this point after obtaining the information from the concerned office and informed accordingly. I find merit in the contention of the appellant against this point and on examination of the issue I, opine that the CPIO should have provided information to the appellant on this score, if information is available, after observing the requisite formalities/conditions as stipulated under Section 11(1) of the RTI Act, 2005 and following the mandatory procedure as set out in the said Section.

**(iii) Point No.1(f):** As far as the contention of the appellant against this point goes, according to my considered views, the CPIO should have provided the information sought for by the appellant after observing the necessary formalities in terms of Section 6(3) of the RTI Act,2005 by way of sending the application to the concerned CPIO under whose supervision, Sri A. Sarkar, Superintendent is working or to the Cadre Controlling Authority controlling the transfer & posting of these officers.

**(iv) Point No.1(h):** Coming to the context of allegation contained in the ground of appeal of this point, I examine the same against the backdrop of the provisions of the RTI Act, 2005 wherein,

inter-alia, it has been laid down that the RTI Act does not cast on the public authority any obligation to answer queries, such as, who, what, when and whether, a position which derived credence/judicial backing in the Hon'ble CIC's judgment in case of Mr. K. Anand Kini –Vs- Canara Bank read with Hon'ble CIC's judgment vide Citation: Shri G. Senthil Kumar v. Directorate of Health & Family Welfare Services in F.No. CIC/SS/A/2013/000838-YA. Over and above, the CPIO has quite correctly replied by taking recourse to the provisions of Section 2(f) *ibid*. Wherein, inter-alia, it has been explicitly set out that seeking clarification, justification, reasons for administrative action is not contemplated within the expression 'information'.

Coming to the context of the second part of the query, I find that the information sought for by the appellant is not clear, understandable, incomprehensible. and hence bereft of clarity. Over and above, I keenly observe that in the absence of requisite details of the said beneficiaries viz. Name, address, Central Excise Registration etc., the CPIO was not in a position to furnish the sought for information/documents against this point. Hence, in my considered view, the CPIO is not supposed to clarify reasons in the light of the provisions of Section 2(f) of Right to Information Act, 2005.

V. Now, I intend to discuss the different Hon'ble CIC's judgment, as relied upon by the instant appellant, *seriatim*:

- (a) CIC/SG/A/2008/00347+00277/1554: I have gone through this judgment and I find that the circumstances of this verdict of the Hon'ble CIC are not applicable to that of the present case inasmuch as the information, sought for have already been provided by the CPIO, as available with him, and he has also been directed to furnish information to certain points as will be evident from the following order passed by the undersigned.
- (b) CIC/SS/A/2012/003762: I have gone through this judgment and I find that the circumstances of this verdict are not applicable to that of the present case inasmuch as the information sought for against this point in the present case relates only to the extent of an officer's current posting whereas, the issue involved in this verdict of the Hon'ble CIC dealt with list of officers with their current posting who are working on any sensitive post under the CBEC.
- (c) CIC/DSESJ/A/2016/305423 dated 16.10.2017: A plain reading of the circumstances covered by this verdict elicits that the same are not applicable to the instant case since there is an element of inspection of judicial file in this order whereas, in the present case, the appellant has sought for information and documents. Furthermore, from the order as at (VI) herein below, it is clearly discernible that the CPIO concerned has been directed to furnish relevant information to the appellant.

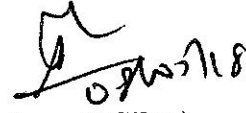
In the light of the above discussion and findings, I proceed to pass the following orders.

## **VI. ORDER**

- (a) Point No.1(a): I uphold the CPIO's stand, to the effect, of denying the information on this score.

- (b) Point No. 1(e): I direct the CPIO to provide the information pertaining to this point to the appellant, if information is available, after observing the mandatory procedure as set out under Section 11(1) of the RTI Act, 2005 within fifteen days from the date of receipt of this order.
- (c) Point No. 1(f): I direct the CPIO to provide the information pertaining to this point to the appellant after observing the requisite formalities in terms of Section 6(3) of the RTI Act, 2005 within fifteen days from the date of receipt of this order.
- (d) Point No. 1(h): The CPIO has correctly denied the information sought for by invoking the provision of Section 2(f) of RTI Act, 2005.
- (e) The appellant is, however, at liberty to prefer a 'Second Appeal' before the Central Information Commission, Room No.326, 2<sup>nd</sup> Floor, August Kranti Bhavan, Bhikaji Cama Place, New Delhi-110066 within 90-days from the date of receipt of this order.

The appeal is disposed of accordingly.

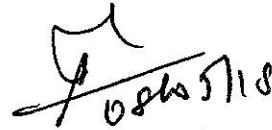


(Sydney D'Silva),  
Joint Commissioner of Central Tax  
&  
1<sup>st</sup> Appellate Authority,  
Howrah CGST Commissionerate

C. No. IV(16)01/RTI/Appeal/CGST/HWH/PK/2018-19/3777-BA Date:- 08/05/2018

Copy for information to:

- (1) Shri Pankaj Kumar Kedia, 35, H.P. Dutta Lane, Kolkata-700033.
- (2) The CPIO & Assistant Commissioner, Central Tax, Howrah CGST Commissionerate for compliance.



(Sydney D'Silva),  
Joint Commissioner of Central Tax  
&  
1<sup>st</sup> Appellate Authority,  
Howrah CGST Commissionerate

O/c