

To

The First appellate authority under RTI Act, CENTRAL Tax, Howrah GST
COMMISSIONERATE. M S Bldg (6th floor),

15/1 strand road ,Kolkata-700001.

Sir,

Sub: appeal to 1st appellate authority.

CONTENTS OF APPEAL TO BE PROVIDED BY THE APPELLANT AS PER RULE 3 OF
CENTRAL INFORMATION COMMISSION.

SL NO	Particulars of appeal	
1.	Name & address of the Appellant.	Brahmadeb Bandyopadhyay. Manushpur, Bandel, Hooghly. PIN-712123
2.	Name & address of the CPIO against the decision of whom the appeal is preferred.	Bidyut Talukdar. CPIO & Asstt Commnr, Central Tax, Howrah GST Commissionerate. Customs House. M S Building(6 th floor), 15/1 strand Road. Kolkata-700001.
3.	Particulars of orders including no & dt against which the appeal is preferred.	CPIO's C No IV(16)100/RTI/CGST/HWH/B.D/2018/1786A dt 5.4.18 , denying the information sought.
4	Brief fact	I sought total 4 information under two broad serial nos-1&2 on 9.3.18 from the CPIO. (copy enclosed) Sl no 1 was in relation to one court order in relation to one charge sheet already served upon me four years back. The CPIO denied the information stating, " information related to the disciplinary proceedings against the RTI applicant and confidential in nature". (copy enclosed). Question sl no 2 was in relation to date of receipt of one letter received in the office of Central Excise, Kol-IV Commissionerate and put up before the Commissioner. It is not asked to the CBI. But the CPIO denied the information on the ground that " the information pertains to an enquiry under CBI".
5	If the appeal filed against deemed refusal, the particulars of the application including no & dt and address of CPIO to whom application was made.	Name & address of applicant—as in sl no 1 above. Dt of application—9.3.18. CPIO's communication no & dt—as in sl no 3 above. Address of the CPIO—as given in sl no 2 above.
6	Prayer or relief sought	I demand the information

		I further demand compensation for the delay caused.
7	Grounds for relief.	<p>(i) Information sought are not barred in RTI Act.</p> <p>(ii) They do not violate safety/security/sovereignty of the country.</p> <p>(iii) charge sheet once served upon the delinquent is not confidential, vide CIC judgments up loaded in their site.</p> <p>(iv) information regarding date of receipt of one letter in the office of Central Excise and its put up before the Commissioner of C E , has no relation to the CBI enquiry as the C E office gave me copy of the original letter through RTI.</p>
8	Verification by the applicant.	The above statement is true to the best of my knowledge and belief.
9	Any other information which the commission may deem necessary for deciding the case.	<p>Question sl no 1 sought to know the fate of the CAT's order in the next 7 months of pronouncement.</p> <p>Q sl no 2. The Central Excise, Kol-IV commissionerate got the letter from field formation and in reply to my RTI gave me the copy under Issue register no 833 dt 18.8.14. Now they deny to disclose the date of receipt of that letter, from field formation, on the plea of CBI enquiry.</p>

Yours sincerely,

 8.4.18
Brahmadeb Bandyopadhyay

Supdt C E (retd)

Manushpur, Bandel, Hooghly

PIN 712123.

To The CPIO

in the office of the Commissioner of CGST, Howrah Commissionerate. :

M S Bldg, Custom House, 15/1 Strand road. Kolkata-700001.

Sir,

Sub: RTI

I am a citizen of India and attach an Indian postal order of Rs 10/- herewith.

Please refer to the charge sheet memo no 82 dt 13.1.14 issued by Commnr C E , Kol-IV, against Brahmadeb Bandyopadhyay (myself), supdt (retd), C E , and CAT Kolkata bench's order dt 22.1.15 to appoint ad hoc disciplinary authority and your reply to my RTI under I R No 7578A dt 5.12.17 , informing that Mr C M Chandolia handed over all charges of C E Kol-IV commissionerate on 21.8.15.

1. Now please inform the undersigned about the (i) diary of events (chronologically) of this charge sheet during the period of 22.1.15 to 21.8.15 (seven months) to implement/ non-implement of the CAT's order.

(ii) also fix a date to show the note sheet pages.

(I further mention that as the charge sheet is served and there is no scope to add or deduct any new material , it is no longer confidential. Also see sec 22 of RTI act)

Again please refer to my RTI and supdt (vig)'s reply under I R No 833 dt 18.8.14. (9 sheets)

2. Please inform the undersigned (i) on which date these 9 sheets were received by C E , Kol-IV Hdqrs and put up before the Commissioner. Also inform who send it to the commnr.

The information sought are not barred by RTI act and they are not related to any third party.

Please do not resort to website as I am not computer savvy.

Yours sincerely,

Brahm 9.3.18
Brahmadeb Bandyopadhyay

Manushpur, Bandel, Hooghly.

PIN 712123.



Encl: IPO Rs 10

(Marked Brahmas)



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, 1st floor, 15/1, STRAND ROAD, KOLKATA- 700001

दूरभाष सं/PHONE NO. 033-2262-8490

C. No. IV (16) 100/RTI/CGST/HWH/B.D/2018 / 1786-A

Date: 05.04.2018

To
Shri Brahmadeb Bandopadhyay
Manushpur, Bandel
Hooghly, Pin-712123
Sir,

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

Please refer to your application dated 09.03.2018 received in this office on 09.03.2018, which has subsequently been registered under Registration No.100/RTI/CGST/HWH/B.D/2018.

The Point wise desired information, as sought for by you, is furnished herein below:

The information so sought against serial No. 1(i), (ii) and 2 were not available with the CPIO. CPIO sought information from the concerned section in terms of section 5(4) of RTI Act, 2005.

Point No-1(i): The concerned section did not disclose the information on the ground that the information related to the disciplinary proceedings against the RTI applicant and confidential in nature. Hence, CPIO is not in a position to provide information.

Point No -1(ii): The concerned section did not disclose the information on the ground that the information related to the disciplinary proceedings against the RTI applicant and confidential in nature and disclosure of which may be harmful for the officer who dealt with the case as clearly stipulated under the provision of Section 8(1) (g) and 8(1) (h) respectively of the RTI Act, 2005. Hence, CPIO is not in a position to provide information .

Point No - 2: The concerned section did not share the information on the ground that the information pertains to an enquiry under CBI hence, it is not sharable in terms of section 8(1)(g) and 8(1)(h) of the RTI Act, 2005. Hence, CPIO is not in a position to provide information.

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 & 1st 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,

Bidyut Talukdar 05/04/18

(BIDYUT TALUKDAR)

CPIO & ASSISTANT COMMISSIONER
HOWRAH GST COMMISSIONERATE

Recd
Mr
7.4.18



RTI MATTER

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, 1st floor, 15/1, STRAND ROAD, KOLKATA- 700001

दूरभाष सं/PHONE NO. 033-2262-8490

ORDER-IN-APPEAL NO. 02/RTI/2018-19

Dated 05/05/2018

PASSED BY : Shri. Sydney D'Silva,
Joint Commissioner of Central Tax
&
1st Appellate Authority of Central Tax, Howrah CGST
Commissionerate, Custom House, M.S. Building,
6th Floor, 15/1 Strand Road, Kolkata-700 001.

Brief fact of the case

Subject: Appeal filed under Section 19(1) of the RTI Act, 2005 by Sri Brahmadeb Bandyopadhyay, Manushpur, Bandel, Hooghly, PIN-712123 against reply under letter C.No.IV(16)100/RTI/CGST/HWH/B.D/2018/1786A dt.05.04.2018.

I. The appellant submitted an application dated 09.03.2018 to the CPIO & Assistant Commissioner, Howrah CGST Comm'te, seeking certain information. The point-wise information, answer and grounds of appeal are depicted herein below:

Please refer to the charge sheet memo No. 82 dated 13.01.2014 issued by Commnr C E, Kol-IV, against Brahmadeb Bandyopadhyay, Supdt (retd.), C E, and CAT Kolkata bench's order dated 22.01.2015 to appoint ad hoc disciplinary authority and your reply to my RTI under I R No. 7578A dated 05.12.2017, informing that Mr. C M Chandolia handed over all charges of C E Kol-IV Commissionerate on 21.08.15.

Query No. 1: Now please inform the undersigned about the (i) diary of events (chronologically) of this charge sheet during the period of 22.01.2015 to 21.08.2015 (seven months) to implement/non-implement of the CAT's order. (ii) also fix a date to show the note sheet pages.

Reply of the CPIO: Point No.1 (i) The concerned section did not disclose the information on the ground that the information related to the disciplinary proceedings against the RTI applicant and confidential in nature. Hence, CPIO is not in a position to provide information.

Point No. 1(ii) The concerned section did not disclose the information on the ground that the information related to the disciplinary proceedings against the RTI applicant and confidential in nature and disclosure of which may be harmful for the officer who dealt with the case as clearly stipulated under the provision of Section 8(1) (g) and 8(1) (h) respectively of the RTI Act, 2005. Hence, CPIO is not in a position to provide information.

Ground of Appeal : Information sought are not barred in RTI Act. Charge sheet once served upon the delinquent is not confidential vide CIC judgments uploaded in their site.

Query No. 2 : Please inform the undersigned (i) On which date these 9 sheets were received by C E, Kol-IV Hdqrs and put up before the Commissioner. Also inform who send it to the Commnr.

Reply of the CPIO : The concerned section did not share the information on the ground that the information pertains to an enquiry under CBI hence, it is not shareable in terms of section 8(1)(g) and 8(1)(h) of the RTI Act,2005. Hence, CPIO is not in a position to provide information.

Ground of Appeal: Information regarding date of receipt of one letter in the office of Central Excise and its put up before the Commissioner of Central Excise, has no relation to the CBI enquiry as the Central Excise office gave the copy of the original letter through RTI.

II. Since aggrieved with the reply dated 05.04.2018, the appellant has preferred the instant appeal dated 08.04.18.

The Appellant has thus prayed for the following relief;

- i. The appellant has demanded the information and further demanded compensation for the delay caused.

III. An opportunity for Personal Hearing was granted to the appellant on **17.04.18 at 11 AM** to appear before the First Stage Appellate Authority, Central Tax, Howrah CGST Commissionerate. The appellant concerned did not attend the Personal Hearing on the said date and time.

Discussion & findings

- I. I have gone through the case records, the appeal dated 08.04.2018 vis-à-vis the replies dated dt.05.04.2018 furnished by the CPIO & Assistant Commissioner, Central Tax, Howrah CGST Commissionerate pertaining to the RTI application dated 09.03.2018 filed by the instant appellant.
- II. In the instant case, I find that the present appeal, to all intents and purposes, revolved around non furnishing of information/documents as sought for by the instant appellant.
- III. Now, I intend to discuss the instant appeal point wise.

Point of appeal No.1 (i) : So far this point is concerned, I find that the CPIO has taken the right stand by not furnishing any information in this regard since disclosure of the same is barred in terms of Section 8(1)(h) of the Right to Information Act 2005 inasmuch as the same was Confidential in nature and pertaining to the disciplinary proceedings initiated against the appellant.

Point of appeal No.1 (ii): On examination of this point, I am of the opinion that the information sought for was not disclosed quite correctly in the light of provisions of

Section 8(1)(g) & 8(1)(h) respectively of the Right to Information Act 2005 since the same was strictly confidential in nature and may be harmful for the officers concerned who have dealt with the case. Thus, in the prevailing circumstances of the case, the question of fixing a date for showing the note sheet pages does not come into play.

Point of appeal No.2 : As regards this point, I find that the sought for information pertains to an issue under CBI enquiry and dissemination of the same is barred in terms of the provisions of Section 8(1)(h) of the Right to Information Act, 2005, while the disclosure of the identity of the officer sending the documents before the Commissioner may be endangered and ipso-facto exempted in the light of the provisions of Section 8(1)(g) ibid. Over and above, any information relating to any enquiry by the CBI does not come within the purview in terms of Second Schedule of the Right to Information Act 2005 and by virtue of Section 24(1) ibid. This position finds judicial support/backing in the verdict of Hon'ble CIC's judgement in the case of Shri B.V.K. Ahluwalia -Vs- Central Bureau of Investigation in file No.CIC/SM/C/2013/000103 and subsequent order dated 07.09.2017 pronounced by the Hon'ble High Court of Delhi in respect of W.P.(C)7439/2012 in the case of CPIO, CBI -Vs- Shri C J Karira.

IV. Accordingly, I proceed to pass the following order in view of the above findings.

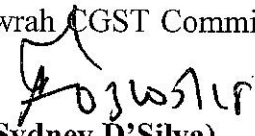
ORDER

- i) The CPIO, Central Tax, Howrah CGST Comm'te has quite rightly denied sought for information to the appellant and hence I reject the instant appeal.
- ii) The appellant is, however, at liberty to prefer a 'Second Appeal' before the Central Information Commission, Room No.326, 2nd Floor, August Kranti Bhavan, Bhikaji Cama Place, New Delhi-110066 within 90-days from the date of receipt of this order.

(Shri. Sydney D'Silva),
Joint Commissioner of Central Tax
&
1st Appellate Authority,
Howrah CGST Commissionerate

C. No. IV(16) 02/RTI/Appeal/CGST/Hwh/BD/2018/1790-91-B Date:-03/05/2018
Copy to:

1. Sri Brahmadeb Bandyopadhyay, Manushpur, Bandel, Hooghly, PIN-712123 for information.
2. The CPIO & Assistant Commissioner, Central Tax, Howrah CGST Commissionerate for information.


(Shri. Sydney D'Silva),
Joint Commissioner of Central Tax
&
1st Appellate Authority,
Howrah CGST Commissionerate

c/c