

Recd on - 29/09/18



भारत सरकार

GOVERNMENT OF INDIA

पञ्चायत मुख्यालय का कार्यालय

OFFICE OF THE PRINCIPAL CHIEF COMMISSIONER

केन्द्रीय वस्तु एवं सेवा कर, कोलकाता क्षेत्र

CENTRAL GOODS AND SERVICES TAX AND CENTRAL EXCISE, KOLKATA ZONE

केन्द्रीय वस्तु एवं सेवा कर भवन, दुर्गा पाली, 180, शान्तिपाली, आर. बी. कनेक्टर, कोलकाता - 700 107

GST Bhawan (2<sup>nd</sup> Floor), 180 Shanti Pally, R. B. Connector, Kolkata - 700 107

Phone No. 033-2441-6797/6842; Fax No. 033- 2441-6834/6798

F.No. V(30)76/CGST/Pr.CCO/RTI/Sep-18/Kol/2018/ 19117

Date: 25.09.2018

To

Shri Arun Chakraborty  
SSD Camp 687/2 Block O New Alipore  
Kolkata, West-Bengal-700053

Sir,

**Sub: RTI Application dated 12.09.2018 filed by Shri Arun Chakraborty under Right to Information Act 2005 -reg.**

Please refer to your RTI application having registration no. CBECE/R/2018/51193 on the above mentioned subject. The application has been transferred to the CPIO vide letter under F. No. 19/117/2018-CX dated 19.09.2018 by Shri V Ganesh Kumar, Under Secretary to Government of India, Ministry of Finance, Department of Revenue, CBEC, New Delhi. The application has been received at this end on 24.09.2018 and subsequently been registered at this office vide Regn No.50/RTI/CGST/CC/KOL/2018 dated 25.09.2018.

The information sought at the points in your RTI application is not available with this CPIO and may be sought from the CPIO, Howrah CGST & CX Commissionerate under Regn No. 50/RTI/CGST/CC/KOL/2018 dated 25.09.2018. The information sought may be sought from the CPIO, Howrah CGST & CX Commissionerate under Regn No. 50/RTI/CGST/CC/KOL/2018 dated 25.09.2018. The information sought may be sought from the CPIO, Howrah CGST & CX Commissionerate under Regn No. 50/RTI/CGST/CC/KOL/2018 dated 25.09.2018.

*If you are aggrieved or dissatisfied with the reply provided by this CPIO, you are at liberty to prefer an appeal within 30 days to the 1<sup>st</sup> Appellate Authority Mr. K.G.V.N. Suryateja, Joint Commissioner, Office of the Principal Chief Commissioner of CGST, Kolkata Zone, Kendriya GST Bhawan, 2<sup>nd</sup> floor, 180 Shantipally, Rajdanga Main Road, R.B. Connector, Kolkata -700107*

Yours faithfully,

(Md. Faizul Haque)  
CPIO & Deputy Commissioner, CCO

Copy to:

1. The CPIO, Office of the Commissioner, Office of the Commissioner, Howrah CGST & CX Commissionerate with request to provide requisite information directly to the applicant on all the points within the stipulated time provided under the RTI Act under intimation to this office. Copy of the said RTI application of Shri Arun Chakraborty and aforesaid letter by CPIO & Under Secretary to the govt. of India dated 19.09.2018 are enclosed
2. Shri V Ganesh Kumar, Under Secretary to the govt. of India, Ministry Of Finance, Deptt. of Revenue, CBEC, New Delhi with reference to the letter F.No 295/1/2018-CX-9

Yours faithfully,

(Md. Faizul Haque)  
CPIO & Deputy Commissioner, CCO



सत्यमेव जयते

Your RTI Request filed successfully.

आपका आवेदन सफलतापूर्वक दर्ज हो चुका है।

Registration Number

001123092413

Name

ARUN CHAKRABORTY

Date of Filing

12-09-2018

RTI Fee (₹)

₹ 20

Payment at Window

Information Access Card / Reply Card

RTI Fee Receipt No.

001123092413

Request filed with

Central Information Commission (CIC), New Delhi

Telephone Number

011-23092413

Email Id

arun.chakraborty@nic.in

## Online RTI Request Form Details

## Request Details :-

Request Registration number	123456789
Public Authority	Ministry of Information & Public Relations, Government of India
<b>Personal Details of RTI Applicant:-</b>	
Name	Sri Arun Chakraborty
Gender	Male
Address	123, Main Street, New Delhi, India
Pincode	110001
Country	India
State	West Bengal
Status	Individual
Educational Status	Graduate
Phone Number	9876543210
Mobile Number	9876543210
Email-ID	arun_chakraborty123[at]rediffmail[dot]com

## Request Details :-

Citizenship	Indian
Is the Requester Below Poverty Line ?	No

Description of Information sought as per RTI Act/Section 2

Description of Information sought

To

The CPIO

Howrah CBST Commissionerate.

RTI No. 12345

Date: 12/03/2024

Subject: Information Under Sec 6 of RTI Act Regarding

This is to inform you that I Sri Arun Chakraborty is a citizen of India.

I seek the following information under RTI Act as per attached document

The information sought is not barred by the RTI Act.

Yours faithfully,

Arun Chakraborty

Ph 9433066540

Concerned CPIO

Supporting document (only pdf upto 1 MB)

To  
The CPIO  
Howrah CGST & CX Commissionerate,  
M.S. Building  
15/1 Strand Road,  
Kolkata-700001

Sir,

Subject: Information under Sec 6 of RTI Act-Regarding

This is to inform you that I Sri Arun Chakraborty is a citizen of India.

With reference to the letter under F.No. C-14011/07/2016-Ad. V/8072 dated 11.07.2018 issued by the Sri Kabindra Joshi, Hon'ble Deputy Secretary to the Government of India where instructions have been laid for timely completion of departmental inquiries; I seek the following information under RTI Act.

1. The information may please be provided as per table below:

In respect of Howrah CGST & CX Commissionerate, Kolkata								
Sl No	Number of Department al cases pending Disposal as on 31.08.2018	Date of Issue of each of Memorandu m of Charges of such Department al cases pending as on 31.08.2018 as mentioned in Column (2)	Number of Cases where Inquiry Officer has Submitte d the Inquiry Report out of Column (3)	Date of submissio n of Report by the Inquiry Officer as in Column (4)	Number of Cases where Inquiry Officer has not Submitte d the Inquiry Report out of Column (3)	Number of Cases where Disciplinary Authority has not completed the department al proceedings inspite of receipt of Inquiry Report out of Column (4)	Number of cases where appropriat e action has been initiated against the Inquiry officer under CCA CCS Rules out of Column (6)	Date of initiatio n of such action out of Column (8)
1	2	3	4	5	6	7	8	9

2. If No appropriate action under CCS (CCA) Rules has been initiated against the Inquiry Officer as mentioned in point 3 of the letter under F.No. C-14011/07/2016-Ad. V/8072 dated 11.07.2018 issued by the Sri Kabindra Joshi, Hon'ble Deputy Secretary to the Government of India, the reason thereof.

The information sought is not barred by the RTI Act.

Yours faithfully,

Arun Chakraborty  
S.S.D.Camp. 687/2, Block-O, New Alipore, Kolkata-700053  
Ph-9433066540  
Email: arun\_chakraborty123@rediffmail.com



Recd on  
27/10/18

**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, 1<sup>st</sup> floor, 15/1, STRAND ROAD, KOLKATA- 700001

दूरभाष सं/PHONE NO. 033-2262-8490, फैक्स/ FAX 033-2262-8490, Email: [rtigsthwh@gmail.com](mailto:rtigsthwh@gmail.com)

C. No. IV (16)74/RTI/CGST/HWH/AC/2018-19 / 11375A

Date: 22.10.2018

To  
Shri Arun Chakraborty,  
S.S.D.Camp, 687.2 Block-O,  
New Alipore, Kolkata-700053

Sub: - RTI application filed by Shri Arun Chakraborty, -furnishing of reply-reg.

Please refer to your RTI application dated 12.09.2018 which has been received in this office on 08.10.2018 from the CPIO & Deputy Commissioner, Pr. CCO, CGST, Kolkata, GST Bhawan, 2<sup>nd</sup> Floor, 180, Shantipally, Rajdanga Main Road, Kolkata-700107 under Section 6(3) of RTI Act, 2005 with the direction to provide information as sought for by you in your RTI application.

Reply: So far as sought for information are concerned, this is for your information that the same cannot be disclosed in terms of Section 8(1)(h) of the Right to Information Act, 2005 in as much as disclosure of the same would impede the process of investigation.

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 Chetan Lama**, Additional 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,

(DEBAPRASAD HALDER)

CPIO & ASSISTANT COMMISSIONER

सीपीआईओ और सहायक कमिश्नर,

CENTRAL TAX केंद्रीय कर

HOWRAH GST COMMISSIONERATE

हावड़ा जीएसटी कमिश्नरेट

C. No. As above/

Dated: /10/2018

Copy to the the CPIO & Deputy Commissioner, Pr.CCO, CGST, Kolkata, GST Bhawan, 2<sup>nd</sup> Floor, 180, Shantipally, Rajdanga Main Road, Kolkata-700107 with reference to his letter endorsement under F.No.V(30)76/CGST/Pr.CCO/RTI/Sep-18/Kol/2018/19118-19 dated 26.09.2018 for his information please.

(DEBAPRASAD HALDER)

CPIO & ASSISTANT COMMISSIONER

सीपीआईओ और सहायक कमिश्नर,

CENTRAL TAX केंद्रीय कर

HOWRAH GST COMMISSIONERATE

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

I.D. No. \_\_\_\_\_  
(for official use)

Shri Chetan Lama,  
The Additional Commissioner & First Appellate Authority,  
Central GST, Howrah GST Commissionerate,  
M.S. Building (6th Floor), 15/1 Strand Road, Kolkata-700001.  
(Name & address of the Senior Officer acting as First Appellate Authority).

Name of the Applicant : Sri Arun Chakraborty

Address of the Applicant: S.S.D.Camp. 687/2, Block-O, New Alipore, Kolkata-700053

Public Officers of the Central/

State Public Information Officer:

Name : CPIO & Assistant Commissioner, Central GST, Howrah GST Commissionerate,  
Kolkata

Address: M.S. Building (1st Floor), 15/1 Strand Road, Kolkata-700001

4. Date of submission of application for seeking information : online application date 12.09.2018

5. Date on which 30/35/40 days from submission of application are over: 13/10/2018

6. Reasons for appeal:

(Please indicate separately for each question)

(a) No response received within the specified period: NA

(b) Aggrieved by the response received within the specified period:

Reasons for appeal: I had sought merely some data in a format regarding pending vigilance cases. The reply received from the CPIO, Howrah GST Commissionerate inter alia stated that to furnish the data would impede the process of investigation under Sec 8 (1) (h) of RTI Act, 2005. The CPIO, Howrah GST Commissionerate has miserably failed to apply his mind in giving due regard to the importance of providing just and proper information to the applicant. It is farcical to say that furnishing numerical data would impede the investigation process. I request you to direct the CPIO, Howrah GST Commissionerate to abstain from providing absurd and misleading information. I would further request you to kindly provide me the factual information sought in the specified format.

7. Date for filing the appeal : 26/11/2018

8. Details of Information

(a) Information requested

(b) Subject

(c) Period

9. The amount for appeal has been deposited in \_\_\_\_\_ vide Receipt No. \_\_\_\_\_ Dated \_\_\_\_\_  
(only if applicable) NA

RTI application enclosed

Signature of Appellant  
E-mail address, if any  
arun\_chakraborty123@rediffmail.com  
Tel. No. - 9433066540

Place-Kolkata

Date-31/10/18

Please attach:

(a) Copy of RTI application.

(b) Copy of the response received from CPIO with which the appellant is aggrieved.



## **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, 1<sup>st</sup> floor, 15/1, STRAND ROAD, KOLKATA- 700001  
दूरभाष सं/PHONE NO. 033-2262-8490

### **ORDER-IN-APPEAL NO. 10/RTI/2018-19**

**Dated 24/ 11/2018**

**PASSED BY** Shri. Chetan Lama  
Additional Commissioner, 1<sup>st</sup> Appellate Authority of  
Central Tax, CGST & Central Excise,  
Howrah 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 Shri Arun Chakraborty, S.S.D. Camp, 687/2, Block-O, New Alipore, Kolkata-700 053 against the reply furnished by the CPIO under letter C.No.V(16)74/RTI/CGST/HWH/AC/2018 /11375 A dt.22.10.18.

I. The appellant filed application dated 12.09.2018 (received in this Commissionerate on 08.10.2018) seeking following information from the CPIO & Assistant Commissioner, Howrah CGST Comm'te. The point-wise information, reply, reasons for appeal and grounds of appeal are depicted herein below:

**Information/Query 1:** No. of Depttl. cases pending as on 31.08.2018, Date of issue of each of Memorandum of Charges of such Departmental cases pending as on 31.08.2018, No. of cases where Inquiry Officer has submitted the Inquiry Report, Date of submission of Report by the Inquiry Officer, No. of cases where Inquiry Officer has not submitted the Inquiry Report, No. of cases where Disciplinary Authority has not completed the departmental proceedings inspite of receipt of Inquiry Report, No. of cases where appropriate action has been initiated against the Inquiry Officer under CCA CCS Rules, Date of initiation of such action.

**Information/Query 2:** If no appropriate action under CCS (CCA) Rules has been initiated against the Inquiry Officer as mentioned in Point 3 of the letter under F.No.C-14011/07/2016-Ad.V/8072 dated 11.07.2018 issued by Sri Kabindra Joshi, Hon'ble Deputy Secretary to the Government of India, the reason thereof.



**Reply of the CPIO:** So far as sought for information are concerned, this is for your information that the same cannot be disclosed in terms of Section 8(1)(h) of the RTI Act, 2005 inasmuch as disclosure of the same would impede the process of investigation.

**Reasons for appeal:** a) receipt of reply to the RTI application beyond the specified time b) Aggrieved by the response received within the specified period.

**Grounds of Appeal:** The appellant has contended in his appeal that by denying the sought for information i.e, some data pertaining to some pending vigilance cases, under Section 8(1)(h) of the RTI Act, 2005 on the ground that furnishing of the same would impede investigation, the CPIO has miserably failed to apply his mind in giving due weightage to the importance of providing just and proper information. The appellant has further framed that it is farcical as to how furnishing of numerical data would impede the investigation process. Over & above, while he has requested the 1<sup>st</sup> Appellate Authority to direct the CPIO concerned to abstain from providing absurd and misleading facts, simultaneously, he has requested to provide him with the data in the specified format.

**II.** Aggrieved with the reply dated 22.10.2018 the appellant has preferred the instant appeal.

The Appellant has thus prayed for the following relief:

Prayer for providing him the data in the specified format.

**III.** An opportunity for Personal Hearing was granted to the appellant on 15.11.2018 at 11.00 AM. Accordingly, the appellant appeared on the said date before the First Appellate Authority and Personal Hearing. During the hearing, the appellant reiterated the submission made by him in his RTI application dated 12.09.2018 and appeal dated 31.10.2018.

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

(a) I have gone through the case records, the appeal dated 31.10.2018 vis-à-vis the reply dated dt.22.10.2018 furnished by the CPIO & Assistant Commissioner, Central Tax, Howrah CGST Commissionerate pertaining to the RTI application dated 12.09.2018 (received in the Commissionerate office on 08.10.2018) filed by the instant appellant and the oral submission of the appellant at the time of hearing held on 15.11.2018.

(b) In the instant case, I find that the moot point of the appeal, to all intents and purposes, revolves around receipt of reply beyond the specified period and non supply of information, pertaining to data/information in respect of pending vigilance cases, by the CPIO, as sought for by the appellant in his application dt. 12.09.2018 invoking the provisions of Section 8(1) (h) of the RTI Act, 2005.

(c) Now, I intend to take up the contention of the appellant pertaining to non-receipt of the reply in time, I find from the records that, as a matter of fact, the RTI application in the instant case

was filed, in the first place, through online to the CBEC on 12.09.2018 which was transferred by the Under Secretary, CBEC, New Delhi under Section 6(3) of the RTI Act 2005 to the CPIO, Pr. Chief Commissioner's Office, Kolkata vide Board's letter F.No.295/1/2018-CX-9 dated 19.09.18 and subsequently, the above mentioned RTI application was received in this Commissionerate on 08.10.2018 from the CPIO & Deputy Commissioner, Pr. Chief Commissioner's Office, Kolkata Zone on transfer under Section 6(3) of the RTI Act 2005. Therefore, the last date for furnishing information/reply to the applicant fell on 06.11.18 while the reply was furnished by the CPIO to the applicant on 22-10.18 i.e well within the stipulated deadline of 30(Thirty)days as stipulated under Sec.7(4)(a) ibid. Thus, it is amply clear that the reply was furnished in time and hence the contention of the appellant is incorrect, untenable and unsustainable.

(d) So far as non-supply of information by the CPIO to the appellant is concerned, I cogently as well as persuasively observe that the allegations/charges made by the appellant against the CPIO emanates from the mis-conceived notion inasmuch as the basic mandate/tenet of the RTI Act is that the information which is available with the CPIO can only be provided to an applicant, an aspect which derives provisional backing in Section 2(j) ibid, wherein, it has, inter-alia, been enshrined that the CPIO is not required to collect, compile or create information for the information seeker but he is expected to provide the information 'available' in the material form. This position also derives judicial backing /credence from the ruling as contained in Para 5 of the Hon'ble CIC's order No.CIC/SS/A/2011/001527 dated 17.02.2012.

In this context, attention is also brought to the verdict of the Hon'ble CIC in Appeal No.CIC/AT/A/2006/00588, dated 30.11.2006(CIC) and the relevant portion of the judgment as contained in para 11 of the subject order is reproduced/ excerpted:

"11. Right to Information Act confers on all citizens a right to access information and this right has been defined under Section 2(j) of the said Act. An analysis of this Section would make it clear that the right relates to information that is held by or under the control of any public authority. If the public authority does not hold information or the information cannot be accessed by it under Section 2(f) or if the information is non-exist, the public authority cannot provide the same under the Act. The Act does not make it obligatory on the part of the public authority to create information for the purpose of its dissemination."

From the above, particularly from the provisions of the RTI Act 2005 and the different judgments pronounced by the Hon'ble CIC, it is explicitly clear that the prime condition for furnishing information/documents, as the case may be, to an RTI applicant, is availability of the same with the CPIO concerned. Since, in the instant case, the desired information was not available with the CPIO, he was not in a position to provide the same.

However, to my considered view, the information pertaining to Col. 2 to 9 of the prescribed format could be provided to the appellant.

(e) Coming to the context of the appellant's query as to whether appropriate action under the CCS (CCA) Rules has been initiated against the Inquiry Officer for non submission of his report and if no action has been initiated reasons thereof, I find that the appellant has sought for reasons instead of information. In this premises, I take recourse to Section 2(f) which stipulates that seeking clarification, justification, reasons for administrative action is not contemplated within the expression of 'information, ipso-facto,' I hold that the same cannot be provided.

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

**V. ORDER**

- (1) I direct the CPIO to furnish the information against Col. 2 to 9 of the format within 15(Fifteen) days from the date of receipt of the order with intimation to the First Appellate Authority.
- (2) I hold that the information/reasons against Point No.2 of the appeal cannot be provided in view of **IV (e)** above.

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.

  
28/11/2018  
(Chetan Lama)

1<sup>st</sup> Appellate Authority

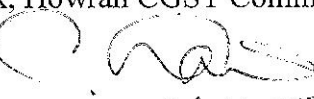
&

**Addl. Commissioner of Central Tax  
Howrah CGST Commissionerate**

C. No. IV(16)10/RTI/Appeal/CGST/HWH/AC/2018-19/3211-12A Date: 27/11/2018

Copy for information to:

- (1) Shri Arun Chakraborty, S.S.D. Camp, 687/2, Block-O, New Alipore, Kolkata-700 053
- (2) The CPIO & Assistant Commissioner, Central Tax, Howrah CGST Commissionerate for compliance.

  
28/11/2018  
(Chetan Lama),

1<sup>st</sup> Appellate Authority,

&

**Addl. Commissioner of Central Tax  
Howrah CGST Commissionerate**

*o/c*