



RTI MATTER/TIME BOUND



**GOVERNMENT OF INDIA
OFFICE OF THE CHIEF COMMISSIONER OF CUSTOMS
CUSTOM HOUSE, 15/1, STRAND ROAD, KOLKATA – 700001**

Ref. No. VIII (48)-19/CCO/KOL/CUS/RTI/2016(Pl.VIII) / 8402

Date: 31.12.2018

**To
The CPIO
O/o the Commissioner of GST,
Howrah Commissionerate
15/1, Strand Road, Custom House, M.S. Building
Kolkata-700001**

Sir,

Sub: Transfer of RTI Applications under section 6(3) of RTI Act, 2005 - reg.

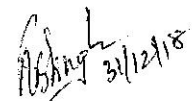
Please find the following RTI applications enclosed herewith.

Sl. No.	Applicant's Name & Address	Registration No. & Date	Date of Receipt
1	B C S Prasad, Raghavendra/Lakshmareddy Colony, Uppal, Hyderabad, K.V.Rangareddy, PIN:500039 Registration No. CCUKL/R/2018/50123	265/CCO/KOL/ CUS/RTI/2018 Dated: 31.12.2018	Date of Receipt: 21.12.2018
2	Deepak Joshi, Gayatri Nagar Phase II, RTO Road, Kusumkhera, Haldwani-263139 Registration No. CCUKL/R/2018/50124	268/CCO/KOL/ CUS/RTI/2018 Dated: 31.12.2018	Date of Receipt: 29.12.2018

Since the information sought is closely connected with your office. the RTI application is being transferred to your office under Section 6(3) of RTI Act, 2005. You are requested to kindly provide all the information available under your charge to the applicant directly under intimation to this office.

Yours' faithfully,

Encl: As above


CPIO & Assistant Commissioner of Customs
Chief Commissioner's Office
Custom House, Kolkata

Copy To

1) B C S Prasad, Raghavendra/Lakshmareddy Colony, Uppal, Hyderabad, K.V.Rangareddy, PIN:500039

2) Deepak Joshi, Gayatri Nagar Phase II, RTO Road, Kusumkhara, Haldwani-263139

CPIO & Assistant Commissioner of Customs
Chief Commissioner's Office
Custom House, Kolkata

Print Save Close



4/12/2018
12/12/2018

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, फैक्स/ FAX 033-2262-8490, Email: rtigsthwh@gmail.com

C. No. IV (16)100/RTI/CGST/HWH/BP/2018-19 / 123567 Date: 11.01.2019

To
Shri B C S Prasad,
Raghavendra Lakshmareddy Colony,
Uppal, Hyderabad, K.V. Rangareddy,
Telangana-50039

Sir,

Sub: - RTI application under RTI Act, 2005 filed by Shri B C S Prasad -
Request for furnishing of information - reg.

Please refer to your RTI application dated 21.12.2018 which has been transferred under Section 6(3) of the RTI Act 2005 by the CPIO & Assistant Commissioner of Customs, Chief Commissioner's Office, Custom House, Kolkata Zone and received in this office on 31.12.2018. The said RTI application has duly been registered vide Registration No. IV(16)100/RTI/CGST/HWH/BP/2018-19 dated 31.12.2018.

The desired information, as received from the concerned Section, pertaining to Headquarter of Howrah CGST & CX Commissionerate are mentioned below:-

Reply: The said information falls under the realm of Section 8(1)(j) of the RTI Act, 2005 and disclosure of which would cause unwarranted intrusion of the privacy of the individual(s) unless larger public interest justifies the disclosure of such information. Thus, the asked information cannot be provided.

Further, the said information also falls under the realm of Section 8(1)(g) of the RTI Act, 2005 and the disclosure of which would endanger the life of physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes. Thus, the asked information cannot be provided.

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 & 1st Appellate Authority under RTI Act, 2005, Central Tax, Howrah GST Commissionerate, M.S. Building (5th Floor), 15/1 Strand Road, Kolkata - 700 001.

Yours faithfully,

B. C. S Prasad
22/01/2019
Attested

(RAN KUMAR BHADURY)
CPIO & ASSISTANT COMMISSIONER
सीपीओ & आसिस्टेंट कमिशनर
CENTRAL TAX केन्द्रीय कर
HOWRAH GST COMMISSIONERATE
हावरा जीएसटी कमिशनरेट

C. No. As above.

Dated: 01.2019

Copy to the CPIO & Assistant Commissioner of Customs, Chief Commissioner's Office, Custom House, 15/1 Strand Road, Kolkata-700001 with reference to your letter under F No. IV(16)100/RTI/CGST/HWH/BP/2018-19 dated 31.12.2018.

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

I.D. No. _____
(for official use)

To

Shri Chetan Lama,
Additional Commissioner & 1st
Appellate Authority under RTI,
Central Tax, Howrah GST Commte,
M.S.Building (6th Floor),
15/1.Strand Road,Kolkata-700001

1. Name of the Applicant : B.C.S.PRASAD
2. Address of the Applicant : 2-1-98, RAGHAVENDRA COLONY, UPPAL,
HYDERABAD-500039, STATE OF TELANGANA
3. Particulars of the Central/
Public Information Officer:
Name : Mr.RAMKUMAR BHADURY
Address: CPIO & ASST.COMMISSIONER, CENTRAL TAX,
Howrah GST COMMISSIONERATE, 1ST FLOOR,
M.S.BUILDING, 15/1 STRAND ROAD,
KOLKATA - 700 001
4. Date of submission of application for seeking information . 26.12.2018/31.12.2018
5. Date on which 30 35 40 days from submission of application are over: 30.1.2019
6. Reasons for appeal:
(Please indicate separately for each question)
 - (a) No response received within the specified period: Received within time. N.A
 - (b) Aggrieved by the response received within the specified period: Received within time.
 - (c) Grounds for appeal:

GROUND S

With RTI application dated 26.12.2018 I have enclosed MACP order of Kolkatta II Commissionerate containing names of about 102 beneficiaries and requested for the entire file including note and correspondence file as mentioned therein. Under the order. The information sought contains certain documents received from other sections, lower authorities, findings of the screening committee which are only public documents related to issues of welfare of employees and public policy. I have not requested for any private information of any employee(s) which tantamounts endangering the life of physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes.

Contd.... 2

2. In the case of UoI Vs Hardev Singh read with UPSC versus R.K. Jain decided on 13.7.2012 Hon'ble Apex Court had taken a view that the expression "personal information" used in Section 8(1)(j) means information personal to any "person", that the public authority may hold. For instance, a public authority may in connection with its functioning require any other person to provide information which may be personal to that person. It is that information, pertaining to that other person, which the public authority may refuse to disclose, if the information sought satisfies the conditions set out in clause (j) of Section 8(1) of the Act, i.e., if such information has no relationship to any public activity (of the person who has provided the information, or who is the source of the information, or to whom that information pertains), or to public interest, or which would cause unwarranted invasion of the privacy of the individual.
3. The scheme of MACPS is introduced by GOI with respect to all the Central Government Employees. As the orders issued under the said scheme confers pecuniary benefits and such orders need to be uniform to all the employees of Central Government scattered all over the country and as such my application for information serves larger public interest. For so many reasons the Howerah Commissionerate is known for their apt interpretation of service rules beneficial to the employees. Their orders are taken as best judgment and valued as precedence for the purpose of uniformity and excellence.
4. The views taken by the PIO to reject my application under the grounds of unwarranted invasion of privacy, third party information, security, safety, life threat to persons do not contain merit because the documents sought are public documents whereunder minutes, proceedings and decisions of screening committee are recorded that are related to public interest, uniform public policy involving larger interest and also their consonance with the policy of GOI

7. Last date for filing the appeal : 21.02.2019

8. Particulars of Information Information requested

Subject : MACP

Period : 2012

B. C. S. Prasad
22/01/2019
Signature of Appellant
E-mail: altimes.in@gmail.com
2-1-98, Raghavendra Colony
Uppal, Hyderabad - 500 039
Mobile: 8886355655

Encl:

Copy of RTI application.

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

Online RTI Request Form Details

RTI Request Details :-

RTI Request Registration number CBECE/R/2018/51633
 Public Authority Central Board of Excise and Customs - Central Excise

Personal Details of RTI Applicant:-

Name B C S PRASAD
 Gender Male
 Address 2-1-98 RASHAVENDRA COLONY, U.P. AL, HYDERABAD
 Pincode 500039
 Country India
 State Telangana
 Status Details not provided
 Educational Status Details not provided
 Phone Number +91-8886355655
 Mobile Number Details not provided
 Email-ID altimes{dot}in[at]gmail{dot}com

Request Details :-

Citizenship Indian
 Is the Requester Below Poverty Line? No

Programme / Information / Subject (to RTI Authorities)

Description of Information sought

Please furnish information of soft copy by mail and hard copy by post, the note file and correspondence file, minutes of screening committee with respect to grant of MATP vide Estt Order No.167/2012 dated 9.11.2012 of Commissioner of Central Excise, Kolkatta II Commissionerate, 15/1, Strand Road, Custom House, M. S. Building, Kolkatta 700001

Concerned CPIO Nodal Officer
 Supporting document (only pdf upto 1 MB) Supporting document not provided

Print

4 pages

B. C. S. Prasad
 22/01/2019
 Attested.



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. 13/RTI/2018-19

Dated 18 / 02 /2019

PASSED BY Shri. Chetan Lama
Additional Commissioner, 1st Appellate Authority,
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 B C S Prasad, Raghavendra, Lakshmareddy Colony, Uppal, Hyderabad, K.V.Rangareddy, Telangana-50039 against the reply/information furnished by the CPIO, Central Tax, Howrah CGST Commissionerate under C. No. IV(16)100/RTI/CGST/ HWH/ BP/2018-19/15350A dated 11.01.2019 to the RTI application dated 21.12.2018.

I. The appellant filed application dated 21.12.2018 seeking following information from the CPIO & Assistant Commissioner, Howrah CGST Comm'te. The information/query, reply and grounds of appeal are depicted herein below:

Information sought for : Information of soft copy by mail and hard copy by post, the note file and correspondence file, minutes of Screening Committee with respect to grant of MACP vide Estt. Order No.167/2012 dated 09.11.2012 of Commissioner of Central Excise, Kolkata-II Commissionerate, 15/1, Strand Road, Custom House, M.S. Building, Kolkata-700 001.

Reply of the CPIO: The said information falls under the realm of Section 8(1)(j) of the RTI Act, 2005 and disclosure of which would cause unwarranted intrusion of the privacy of the individual(s) unless larger public interest justifies the disclosure of such information. Thus, the asked information cannot be provided.

Further, the said information also falls under the realm of Section 8(1) (g) of the RTI Act, 2005 and the disclosure of which would endanger the life of physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes. Thus, the asked information cannot be provided.

Grounds of Appeal: It has been stated that the appellant with his RTI application dated 26.12.2018 had enclosed MACP order of Kolkata-II Commissionerate containing names of about 102 beneficiary and requested for the entire file including note and correspondence file as mentioned therein under the order. The information

sought contains certain documents received from other sections, lower authorities, findings of the screening committee which are only public documents related to issues of welfare of employees and public policy. I have not requested for any private information of any employee(s) which tantamount endangering the life of physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes.

2. In case of UOI Vs. Hardev Singh read with UPSC versus R. K. Jain decided on 13.07.2012 Hon'ble Apex Court had taken a view that the expression "personal information" used in Section 8(1)(j) means information personal to any "person", that the public authority may hold. For instance, a public authority may in connection with its functioning require any other person to provide information which may be personal to that person. It is that information, pertaining to that order person, which the public authority may refuse to disclose, if the information sought satisfies the conditions set out in clause (j) of Section 8(1) of Act, i.e., if such information has no relationship to any public activity (of the person who has provided the information, or who is the source of the information, or to whom that information pertains), or to public interest, or which would cause unwarranted invasion of the privacy of the individual.

3. The scheme of MACPS is introduced by GOI which respect to all the Central Government Employees. As the orders issued under the said scheme confers pecuniary benefits and such orders need to be uniform to all the employees of Central Government scattered all over the country and as such my application for information serves larger public interest. For so many reasons the Howrah Commissionerate is known for their apt interpretation of service rules beneficial to the employees. Their orders are taken as best judgment and valued as precedence for the purpose of uniformity and excellence.

4. The appellant has further contended that the views taken by the PIO to reject his application under the grounds of unwarranted invasion of privacy, third party information, security, safety, life threat to persons do not contain merit because the documents sought are public documents whereunder minutes, proceedings and decisions of screening committee are recorded that are related to public interest, uniform public policy involving larger interest and also their consonance with the policy of GOI.

II. Aggrieved with the reply dated 11.01.2019 the appellant has preferred the instant appeal.

The Appellant has thus prayed for the following relief:

Prayer for providing him with the information as sought for in his RTI application.

III. An opportunity for Personal Hearing was granted to the appellant on 08.02.2019 at 11AM. However, the appellant did not appear on the said date before the First Appellate Authority for Personal Hearing.

IV. Discussion & findings

(a) I have gone through the case records, the appeal dated 22.01.2019 vis-à-vis the reply dated dt. 11.01.2019 furnished by the CPIO & Assistant Commissioner, Central Tax, Howrah CGST Commissionerate pertaining to the RTI application dated 21.12.2018 filed by the instant appellant.

(b) In the instant case, I find that the moot point of the instant appeal, to all intents and purposes, is to be decided as to whether information viz. the note file and correspondence file, minutes of Screening Committee with respect to grant of MACP through issuance of

Estt. Order No.167/2012 dated 09.11.2012, by erstwhile Commissioner of Central Excise, Kolkata-II Commissionerate, can be provided to an RTI applicant.

On examination of the available records particularly from the information sought for by the applicant, I find that the same emanates out of issuance of the Estt. Order No.167/2012 dated 09.11.2012 pertaining to grant of MACP from the office of the Commissioner, Central Excise, erstwhile Kolkata-II Commissionerate and the CPIO has denied the information/copy of documents as sought for by the appellant in his application dt. 21.12.2018 by invoking the provisions of Section 8(1) (j) and Section 8(1)(g) of the RTI Act, 2005.

(c) As a matter of fact, it is explicitly clear that the information/copy of documents desired by the applicant/appellant in the instant case relate to a Departmental Screening Committee Meeting held for the purpose of granting financial benefit to certain officers under the MACP Scheme. However, it is quite clearly understandable/comprehensible that issuance of such an order through the Departmental Screening Committee Meeting entails a series of imperative and important processes. These processes cannot attain finality without different notings, correspondences etc. in the respective file by the officers of different levels and I consider the process, in its entirety, strictly confidential, personal and sensitive in nature.

Now, coming to the context of the appellant's contention that he has not requested for any private information of any employee is not acceptable inasmuch as the file notings, minutes of a DSC Meeting contain different personal details in respect of the officers covered under an order, in this case Estt. Order No.167/2012 dated 09/11/2012 and disclosure of which are exempted under the provisions of Section 8(1) (g) read with Section 8(1)(j) of the Right to Information Act, 2005.

As far as the invocation of the provisions under Section 8(1) (j) *ibid.* by the CPIO in course of denying the sought for information is concerned, I hold that this stand point of the CPIO is well in consonance and very much consistent with the provisions of the RTI Act particularly in view of the fact that the whole process of MACP is governed by the Service Rules which fall under the expression of personal information, the disclosure of which has no relationship with public activity or public interest. Besides, no larger public interest justifies/calls for dissemination of the information so sought for by the appellant. On the other hand, the possibility of any individual(s)'s privacy being invaded by the dissemination of the same cannot be ruled out. Over and above, a harmonized reading of the verdict in the case of UOI Vs Hardev Singh read with UPSC -vs- R.K.Jain dated 13.07.2012 makes it evident, *inter-alia*, that the prime condition for disclosure of personal information is that the sought for information has to satisfy/justify conditions as laid down under the provisions of Section 8(1)(j) of the RTI Act 2005 i.e. having larger public interest in dissemination of the information and not information confidential or secret in nature. On the contrary, to my considered view, the entire information/copy of documents so sought for by the appellant were/are qualified as personal information within the - meaning of the provisions of Section 8 (1) (j) and confidential within the - meaning of the provisions of Section 8 (1) (g) of the RTI Act

Thus, in the emerged circumstances, I opine that the CPIO has rightly and justifiably denied any information to the applicant by taking recourse to the provisions of Section 8(1)(g) read with 8(1)(j) of the RTI Act 2005 and the legality and provisional backing for

such denial of information lies intrinsically in the textures of Section 8(1)(g) and 8(1)(j) ibid., ipso-facto, the appellant's contention that the information, sought for, having larger public interest and the same are not private information suffers from provisional and legal infirmity and hence is neither tenable nor sustainable on the face of the facts and circumstances of the case vis-à-vis the provisional backing. Hence, I do not find any ground to interfere with the stand taken by the CPIO in the instant case.


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

V. ORDER

(1) I uphold the stand taken by the CPIO in the instant case and reject the appeal.

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.

The appeal is disposed of accordingly.


18/02/2019

(Chetan Lama)

1st Appellate Authority

&

Addl. Commissioner of Central Tax
Howrah CGST Commissionerate

F. No. IV (16)13/RTI/Appeal/CGST/HWH/BCSP/2018-19/

Dated: 18/02/2019

Copy for information to:

17397.98-A

- (1) Shri B.C.S. Prasad, 2-1-98, Raghavendra Colony, Uppal, Hyderabad-500039, State of Telangana.
- (2) The CPIO & Assistant Commissioner, CGST & C.Ex., Howrah CGST & C.Ex. Commissionerate, Kolkata.


18/02/2019

(Chetan Lama),

1st Appellate Authority,

&

Addl. Commissioner of Central Tax
Howrah CGST Commissionerate

c/c