



NATION
TAX
MARKET

RTI MATTER

भारतसरकार GOVERNMENT OF INDIA
OFFICE OF THE COMMISSIONER OF CENTRAL TAX,
HOWRAH GST COMMISSIONERATE
एम.एस. बिल्डिंग, 15/1, स्ट्रैंडरोड, कोलकाता- 700001
M.S. BUILDING, 2nd floor, 15/1, STRAND ROAD, KOLKATA- 700001
दूरभाषसं/PHONE NO. 033-2262-8490

4/9/19

C. No. IV (16)36/RTI/CGST/HWH/NPR/2019-20

Date: .09.2019

To
Shri Nirmalya Prasad Roy,
Flat No. F-3, River Palace,
280, K.B.C. Road Hatkhola,
Chandannagar, Hooghly,
PIN -712136

Super (FAA)

Sir,

**Sub: -Order-in-Appeal No. 06/RTI/2019-20 dated 27.08.2019 in the case of
Sri Nirmalya Prasad Roy -Furnishing of documents-reg.**

This has a reference to the Order-in-Appeal No. 06/RTI/2019-20 dated 27.08.2019 passed by the 1st Appellate Authority & Addl. Commissioner of Central Tax, Howrah CGST Commissionerate in course of disposing of your appeal dated 06.08.2019 under Section 19(1) of the RTI Act, 2005 against the reply/documents furnished by the CPIO under letter C. No. V (16)36/RTI/CGST/HWH/NPR/2019-20/5753A dt. 24.07.19 and even no. 6399A dated 02.08.2019.

In this context, as directed by the First Appellate Authority at point no.V(1) in the above mentioned Order-in-Appeal, this is to state that no such notice pertaining to Pay Fixation Order dated 09/11/2015 is available in this office. However, copy of letter dated 14.05.2019 and dated 22.05.2019 as sought for by you are furnished herewith.

Enclo: 2(Two) pages.

Yours sincerely,

sd/-
(BINAY KRISHNA MANDAL)
CPIO & ASSISTANT COMMISSIONER
सीपीआईओऔरसहायककमिश्नर,
CENTRAL TAX केंद्रीयकर
HOWRAH GST COMMISSIONERATE
हावड़ाजीएसटीकमिश्नरेट

C. No. As above

8256A

Date: 04 .09.2019

Copy to the First Appellate Authority(FAA) & Additional Commissioner, Central Tax, CGST& CX, Howrah Commissionerate with reference to his Order-in-Appeal No. 06/RTI/2019-20 dated 27.08.2019, endorsed under IV(16)06/RTI/Appeal/CGST/HWH/NPR/2019-20/7676A dated 27.08.2018.

Binay Krishna Mandal
(BINAY KRISHNA MANDAL)
CPIO & ASSISTANT COMMISSIONER
सीपीआईओऔरसहायककमिश्नर,
CENTRAL TAX केंद्रीयकर
HOWRAH GST COMMISSIONERATE
हावड़ाजीएसटीकमिश्नरेट



RTI MATTER

भारतसरकार GOVERNMENT OF INDIA

OFFICE OF THE COMMISSIONER OF CENTRAL TAX, HOWRAH GST COMMISSIONERATE

एम.एस. बिल्डिंग, 15/1, स्ट्रैंडरोड, कोलकाता- 700001

M.S. BUILDING, 2nd floor, 15/1, STRAND ROAD, KOLKATA- 700001

दूरभाषसं/PHONE NO. 033-2262-8490

ORDER-IN-APPEAL NO.06/RTI/2019-20

Dated 27/ 08 /2019

PASSED BY Shri. Pradeep Kumar Bohra
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 Nirmalya Prasad Roy, Flat No. F-3, River Palace, 280, K.B.C. Road, Hatkhola, Chandannagar, Hooghly, PIN -712136 against the information/documents furnished by the CPIO, Central Tax, Howrah CGST Commissionerate under C.No.V(16)36/RTI/CGST /HWH/NPR/2019-20/5753A dt. 24.07.19 and even no.6399A dated 02.08.2019 pertaining to his RTI application dated 12.07.2019.

- I. The appellant submitted an application dated 12.07.2019 seeking certain information/copies of documents from the CPIO & Assistant Commissioner, CGST & CX, Howrah Comm'te. Since the appeal has been preferred against the information/documents sought for against **Point No.2 & Point No.5** respectively, the information/documents sought for, reply/documents provided by the CPIO and the grounds of appeals are illustrated herein below:

Information/documents sought for against Point No. 2: Copy of the notice, if any, served by the office/Comm'te informing Shri Nirmalya Prasad Roy that any amount found to have been made in excess due to pay fixation order issued vide C.No.II(39)1-E/ACP/MACP/DKN/2009/Part/8218 dated 09/11/2015, would be required to be refunded.

Reply of the CPIO: Revised Pay Fixation Order and authority of Gratuity in which recovery details contains 02(Two) pages vide reply dated 24/07/2019.

Information/documents sought for against Point No. 5: Copies of both the two letters dated 14/05/2019 addressed to Audit-I Comm'te & Kolkata South Comm'te on the subject of MACP upgradation etc. as communicated to the undersigned in the last para of your Comm'te (Acctts/pension) letter under C.No.II(25)01/Acctts./Pension-Misc/CGST-HWH/2017/Pt-1/2520A dt.17.05.2019. Latest development in the case may be furnished.

Reply of the CPIO: Copy of letter dated 14/05/19 addressed to Kolkata Audit-I Comm'te & Kolkata South Comm'te and copy of letter received from Audit-I Comm'te contain 05(Five) pages. No letter received from Kolkata South Comm'te vide reply dated 24/07/2019. The CPIO also communicated to the applicant as to the amount to be paid for supply of copies of documents as stipulated under the provisions of Section 7(3) (a) of RTI Act, 2005. Subsequently, vide letter dated 01/08/2019, the applicant paid the requisite fees in the form of IPO for furnishing the documents.

(1) Grounds of appeal: The appellant has contended that the desired information pertaining to **Point No.2** of the RTI application dated 12/07/2019 has not been furnished, instead, two copies of other documents, which were not desired at all, have been provided to him.

It has further been stated that the desired documents against **Point No.5** of the RTI application i.e. copies of letters dated 14.05.2019 addressed to Kolkata Audit-I Commissionerate & Kolkata South Commissionerate and copy of letter dated 22.05.2019 received from Audit-I Commissionerate, have not been furnished instead, it is found that copies of letters dated 17.05.2019 and 28.05.2019 have been provided which were not desired at all. As such, the appellant has desired only the copies of letters dated 14.05.2019 and 22.05.2019.

(2) Relief Sought for: To provide copies of notice, if available, pertaining to refund of excess payment consequent to pay fixation order dated 09/11/2015 & the letters/documents, as cited hereinabove, i.e. (14.05.2019 and 22.05.2019) which, according to the appellant, must be available with this office.

II. Aggrieved with the reply dated 02/08/2019 the appellant has preferred the instant appeal.

The Appellant has thus prayed for the following relief:

Prayer for supply of copies of the documents as mentioned as at **(2)** above.

III. An opportunity for Personal Hearing was granted to the appellant on **26.08.2019 at 3 PM**. However, Shri Nirmalya Prasad Roy, the appellant did not attend the Personal Hearing instead, has sent an e-mail dated 26/08/2019 wherein, it has been requested for deciding the appeal on the basis of the available records.

IV. Discussion and findings:

- (a) I have gone through the case records, the appeal dated 06.08.2019 vis-à-vis the reply dated 02.08.2019 furnished by the CPIO & Assistant Commissioner, Central Tax, CGST & CX, Howrah Commissionerate pertaining to the RTI application dated 12.07.2019 filed by the instant appellant.
- (b) In the instant case, I find that the moot point of the instant appeal lies in non-furnishing of Copies of certain documents as sought for by the appellant instead, the CPIO has furnished copies of letters which, as contended by the appellant, were/are not desired by him.

As a matter of fact, I find that in the present case, the applicant/appellant sought for information/documents against Point Nos. 1 to 7 in his RTI application dated 12/07/2019 out of which the appellant has preferred appeal against the reply/documents furnished by the CPIO pertaining to Point No. 2 & 5 respectively. Thus, I find that the issue to be decided in the present case as to whether the documents provided by the CPIO are the same as desired by the appellant or otherwise.

On examination of the available records particularly from the documents furnished by the CPIO to the appellant, I find that the same are not at all sought for by the applicant/appellant in his RTI application as contended by the appellant in his appeal. Now, I intend to take up separately Point Nos. 2 & 5 of the appeal for discussion.

- (c) **Point No.2 :** A plain reading of the documents provided by the CPIO vis-à-vis the RTI application clearly manifests that the CPIO concerned, instead of replying either in the negative or affirmative, to the query regarding issuance of any notice, intimating the appellant, as to refund of any amount found to be paid in excess due to pay fixation order issued vide C.No.II(39)1-E/ACP/MACP/DKN/2009/Part/8218 dated 09/11 /2015, has simply furnished copy of the impugned Pay Fixation Order dated 09/11/2015 which was/has not at all been desired by the appellant.

- (d) **Point No.5:** Similarly, I find that while the appellant has sought for copies of two letters dated 14/05/2019 addressed to the Audit-I Comm'te, Kolkata South Commissionerate and copy of letter dated 22.05.2019 received from Audit-I Commissionerate, the CPIO has provided copies of letters dated 17/05/2019 & 28/05/2019 respectively quite irrelevantly/extraneously.

Viewed the instant appeal against the above backdrop, I am of the opinion that the CPIO has not acted as per the provisions of the Right to Information Act, 2005 inasmuch as he has provided some documents which were not desired by the applicant/appellant, a stand neither commensurate nor plausible with the tenet/mandate of a Citizen Act and bereft of any logical or provisional backing as well.


Form the above discussion clubbed together with the fact that RTI Act is, to all intents and purposes, a beneficial legislation which enables any and every citizen entitled to get correct and relevant information by way of filing application under the said Act, I hold that the CPIO should have provided the documents as sought for by the applicant/appellant, of-course, depending upon their availability.

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

V. ORDER

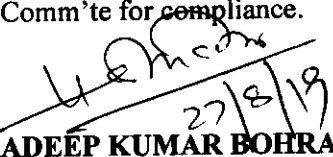
- (1) I direct the CPIO to furnish copy(s) of the impugned notice pertaining to Pay Fixation Order dated 09/11/2015, if available, letters dated 14/05/2019 & 22/05/2019 to the appellant within 15(Fifteen) days from the date of receipt of this order.

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.


27/8/19
(PRADEEP KUMAR BOHRA)
1st Appellate Authority
&
Additional Commissioner
CGST & CX
Howrah Commissionerate

C. No. IV (16)06/RTI/Appeal/CGST/HWH/NPR/2019-20/7669-7811 Date: 27/08/2018
Copy for information to:

- (1) Shri Nirmalya Prasad Roy, Flat No. F-3, River Palace, 280, K.B.C. Road, Hatkhola, Chandannagar, Dist-Hooghly, PIN -712136.
(2) The CPIO & Assistant Commissioner, Howrah CGST Comm'te for compliance.

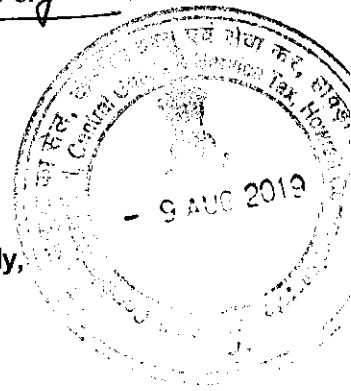

27/8/19
(PRADEEP KUMAR BOHRA)
1st Appellate Authority
&
Additional Commissioner
CGST & CX
Howrah Commissionerate

o/c

8/9/19
Super
PAA (RTI)

Dt: 06/08/2019.

RTI/urgent.



From: Nirmalya Prasad Roy,
Flat No. F-3, River Palace,
280, K.B.C. Road, Hatkhola,
Chandannagar, Dtst : Hooghly,
PIN: 712136.

To
Shri Pradeep Kumar Bohra,
Additional 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.

Sub:- First Appeal under RTI Act, 2005 against my RTI application dt. 12.07.2019.

Sir,

Kindly refer to CPIO & Asstt. Commissioner, Central Tax, Howrah GST Commissionerate RTI reply / letter under C.No. IV(16)36/RTI/CGST/HWH/NPR/2019-20/5753A dated 24.07.2019 followed by his letter under even No. 6399A dated 02.08.2019 in reply to my RTI application dated 12.07.2019. It is taken to be understood that the information furnished against all other points of query, except point nos. 2 and 5 are complete and no more information is available with you for being furnished to me on those points. But, since I am aggrieved and dissatisfied with the information / replies furnished against the above mentioned two points, I would like to prefer my First Appeal before you, with the request to furnish information on Point nos. 2 and 5 of my RTI application dt. 12.07.2019, at your earliest convenience.

1. Noted. No comments.
2. The desired information has not been furnished. But, in place of that, two copies of other documents, which were not at all desired, have been furnished – hence those are returned herewith. The desired document i.e. the copy of relevant notice, if any, served by the office / Commissionerate informing Shri Roy that any amount found to have been made (paid) in excess due to pay fixation order dt. 09.11.2015 on grant of 1st and 2nd MACP upgradations, would be required to be refunded, may kindly be furnished, if available, with your office.
3. Noted. No comments.
4. Noted. No comments.
5. The desired information i.e. copies of letters dt. 14.05.2019 addressed to Kolkata Audit – 1 Commissionerate & Kolkata South Commissionerate and copy of letter dt. 22.05.2019 received from Audit – 1 Commissionerate, have not been furnished. But, instead of furnishing the copies of those desired documents / letters, it is found that copies of letters dt. 17.05.2019 and 28.05.2019 have been furnished, – which were not at all desired, and hence returned herewith. The desired copies of letters dt. 14.05.2019 and 22.05.2019, may kindly be furnished, which must be available with your office.
6. Noted. No comments.
7. Noted. No comments.

I hope that you will be kind enough to dispose my RTI Appeal before you early by furnishing the desired information available with you to enable me to take necessary action on the basis of information furnished.

Regards,

Encl:- As above (5 sheets.)

Date: 06 / 08 / 2019.

Yours faithfully,
Nirmalya Prasad Roy
(NIRMALYA PRASAD ROY) 06/08/2019



RTI MATTER

भारतसरकार GOVERNMENT OF INDIA
OFFICE OF THE COMMISSIONER OF CENTRAL TAX,
HOWRAH GST COMMISSIONERATE
एम.एस. बिल्डिंग, 15/1, स्ट्रैंडरोड, कोलकाता- 700001
M.S. BUILDING, 2nd floor, 15/1, STRAND ROAD, KOLKATA- 700001
दूरभाषसं/PHONE NO. 033-2262-8490

C. No. IV (16)36/RTI/CGST/HWH/NPR/2019-20 / 8255A Date: 04.09.2019

To
Shri Nirmalya Prasad Roy,
Flat No. F-3, River Palace,
280, K.B.C. Road Hatkhola,
Chandannagar, Hooghly,
PIN -712136

Sir,


Sub: -Order-in-Appeal No. 06/RTI/2019-20 dated 27.08.2019 in the case of
Sri Nirmalya Prasad Roy -Furnishing of documents-reg.

This has a reference to the Order-in-Appeal No. 06/RTI/2019-20 dated 27.08.2019 passed by the 1st Appellate Authority & Addl. Commissioner of Central Tax, Howrah CGST Commissionerate in course of disposing of your appeal dated 06.08.2019 under Section 19(1) of the RTI Act, 2005 against the reply/documents furnished by the CPIO under letter C. No. V (16)36/RTI/CGST/HWH/NPR/2019-20/5753A dt. 24.07.19 and even no. 6399A dated 02.08.2019.

In this context, as directed by the First Appellate Authority at point no.V(1) in the above mentioned Order-in-Appeal, this is to state that no such notice pertaining to Pay Fixation Order dated 09/11/2015 is available in this office. However, copy of letter dated 14.05.2019 and dated 22.05.2019 as sought for by you are furnished herewith.

Enclo: 2(Two) pages.


Yours sincerely,


(BINAY KRISHNA MANDAL)
CPIO & ASSISTANT COMMISSIONER
सीपीआईओऔरसहायककमिश्नर,
CENTRAL TAX केंद्रीयकर
HOWRAH GST COMMISSIONERATE
हावड़ाजीएसटीकमिश्नरेट

C. No. As above / 8258A

Date: 04.09.2019

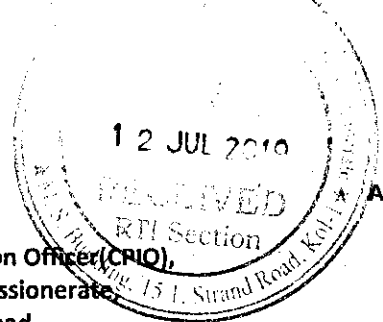
Copy to the First Appellate Authority(FAA) & Additional Commissioner, Central Tax, CGST& CX, Howrah Commissionerate with reference to his Order-in-Appeal No. 06/RTI/2019-20 dated 27.08.2019, endorsed under IV(16)06/RTI/Appeal/CGST/HWH/NPR/2019-20/7676A dated 27.08.2018.


(BINAY KRISHNA MANDAL)
CPIO & ASSISTANT COMMISSIONER
सीपीआईओऔरसहायककमिश्नर,
CENTRAL TAX केंद्रीयकर
HOWRAH GST COMMISSIONERATE
हावड़ाजीएसटीकमिश्नरेट

१८

RTI/urghat

Dt-12-07-2019



To
The Central Public Information Officer (CPIO),
Howrah CGST & C.Ex. Commissionerate,
M.S.Building, 15/1, Strand Road,
Kolkata-700 001.

Address - From: Nirmalya Prasad Roy,
Flat No.F-3, River Palace,
280,K.B.C.Road,Hatkholra,
Chandannagar, Hooghly,
PIN: 712136.

Sub: - Application under Right To Information Act, 2005.

Sir,

I would request you to furnish the following information under RTI Act,2005 to me, by speed post to my above mentioned address ,which are urgently required in public interest:-

1. Copy of Pay fixation order issued vide C.No.II(39)1-E/ACP/MACP/DKN/ 2009/ Part/8218 dated 09.11.2015 by the Asstt.Commissioner,C.Ex., Dankuni Division effecting 1st and 2nd MACP upgradations in respect of Shri Nirmalya Prasad Roy,Inspector as granted by Kol-II Comm'te (Cadre Controlling Authority) vide their Estt.Order No. 80/2015 dt.09.10.2015.
2. Copy of the notice , if any, served by the office/Comm'te informing Shri Roy that any amount found to have been made in excess due to above pay fixation order would be required to be refunded.
3. Copy of the Undertaking/Declaration,if any , submitted by Shri Roy while opting for the revised pay on grant of the above pay fixation to the effect that he would be liable to refund any excess payment made to him.
4. Copy of Assistant Accounts Officer,IAW,CBIC,EZ,Kolkata letter no.DCA/EZ/ Kolkata/IAW /05/ 2018-19/830 dated 26.11.2018 and copy of PAO,CGST,Kol-IV letter no.PAO/C.Ex./KOL-IV/PEN/2018-19/761 dt.7.12.2018 - Both the Copies.
5. Copies of both the two letters dt.14.05.2019 addressed i.e. Kolkata Audit-1 Commissionerate and Kolkata South Commissionerate on the subject of MACP upgradation etc. as communicated to the undersigned in the last para of your Comm'te (Acctts/Pension)letter under C.No.II(25)01/Acctts./Pension-Misc/CGST-HWH/2017/Pt-1/2520A dt.17.05.2019. Latest developments with copies of letters/replies received by your Comm'te from them,if any, may also be furnished.
6. Copy of the order Hon'ble CAT,Calcutta Bench Order in the case of O.A.651 of 2015 Ranjit Kumar Biswas and Others and a copy of the Writ filed by the Department under WPCT No.3 of 2019 before the Hon'ble High Court of Calcutta as communicated to the undersigned vide your Comm'te letter under C.No. II(25)01/Acctts./Pension-Misc/CGST-HWH/2017/Pt-1/2520A dt.17.05.2019. Latest development in the case may be furnished.
7. Copy of your detailed report alongwith enclosures, if any, submitted by Howrah Commissionerate to the Pr.Chief Commissioner,Kolkata Zone or/and to the Under Secretary to the Govt.of India ,CBIC,DOR, Min.of Finance, New Delhi called for vide letter under F.No.C-19017/4/2018 -Ad.IVA dt.17th May,2019 from Pr.CCO,Kolkata Zone with copy for your information and necessary action in regard to pensionary grievances of Sri Nirmalya Prasad Roy,Inspector(Retd.).

RTI application fee for Rs.10/- (Ru) only by IPO for necessary action towards furnishing the information as desired.

I am enclosing herewith fees for Rs.50/-,by crossed IPOs as detailed under enclosure,payable to ACAO,CGST & C.Ex.,Howrah Comm'te for furnishing the copies/information called for hereinabove as required under RTI Acts/Rules. The information may kindly be sent by Speed Post to my above address.

As above (du) IPO NO. 23 F 178968.
Encl: Crossed IPO for Rs.50/- bearing No. 78G 247284
Dated 12/07/2019

Date:12.07.2019.

Yours faithfully,
Nirmalya Prasad Roy 12-07-19
(NIRMALYA PRASAD ROY)