

173
07/04/22

MOST URGENT
RTI MATTER



GOVERNMENT OF INDIA

OFFICE OF THE PRINCIPAL COMMISSIONER OF CGST & CENTRAL TAX:
KOLKATA- NORTH COMMISSIONERATE, CGST BHAWAN:

1ST FLOOR:180, SHANTIPALLY, RAJDANGA MAIN ROAD, E.M BYPASS KOLKATA-700107
C. No. V(30)37/RTI/HQ/CGST & CX/Kol-North/2022

Dated: -

To

Shri Jugal Krishna Paul,

Sir/Madam,

Sub: Information under the RTI Act, 2005 — Regarding.

Please refer to your RTI application having Registration No. GSTKT/R/T/22/00025 dated- 21.03.2022, which was received in this Commissionerate on 25.03.2022. Subsequently the said RTI application was registered at this office vide Registration No.38/RTI/Kol-North/2022 dated- 29.03.2022.

The desired informations as received from the AC(Adjudication), CGST&CX Kolkata North Commissionerate is enclosed herewith.

If you are aggrieved or dissatisfied with the above information, you may prefer an appeal within 30 (thirty) days of receipt of the information before the 1st Appellate Authority namely **Ms Mohsina Tabassum**, Joint Commissioner & FAA, CGST & CX, Kolkata-North Commissionerate, O/o The Principal Commissioner of CGST & CX, 2nd Floor, Kendriya Utpad Shulk Bhawan, 180, Shantipally, Rajdanga Main Road, Kolkata-700107.

Encl- 01(One) Sheet.

Yours faithfully,

(Indu Bikash Das)

CPIO & Assistant Commissioner

HQ, RTI Cell

CGST: Kol-North Comm'te.

Dated 06 APR 2022

C. No. As above/ 360
Copy forwarded for information to: -

1. The Assistant Commissioner (Systems), Computer Cell, CGST & CX, Kolkata North Commissionerate with a request to upload the RTI application dated-21.03.2022, submitted by Shri Jugal Krishna Paul (enclosed Six sheets).
2. The CPIO & Assistant Commissioner, O/o the Pr. Chief Commissioner CGST & CX, Kolkata Zone.

07/04/22
Super. (System)

(Indu Bikash Das)

CPIO & Assistant Commissioner

HQ, RTI Cell

CGST: Kol-North Comm'te.

134A
05/04/22

Sup (RTI)
05/04/22



भारतसरकार/ GOVERNMENT OF INDIA

प्रधानआयुक्तकाकार्यालय/ OFFICE OF THE PRINCIPAL COMMISSIONER

केन्द्रीयवस्तुऔरसेवाकरएवंउत्पादशुल्क, कोलकाताउत्तरआयुक्तालय

CENTRAL GOODS AND SERVICE TAX & CENTRAL EXCISE, KOLKATA NORTH COMMISSIONERATE

वस्तुऔरसेवाकरभवन, (2 तल), 180, शांतिपल्ली/ GOOD AND SERVICE TAX BHAWAN, (2nd Floor), 180, SHANTI RALLY

राजडंगामेनरोड, (आर.बी.कनेक्टर), कोलकाता-700107 / RAJDANGA MAIN ROAD, (R.B. CONNECTOR), KOLKATA-700107

C. No.V(15)04/North CGST&CX/Adjn/RTI/2017/167

Date: 05.04.2022

05 APR 2022

✓ To

The CPIO & Assistant Commissioner,
HQ, RTI Cell, CGST & CX,
Kolkata North Commissionerate,
Kolkata-700107.

Sub :- RTI application dated 21/03/2022 filed by ShriJugal Krishna Paul,
being transferred under Sec.5(4) of RTI Act, 2005 -reg.

Please refer to the letter issued under C. No. V(30)37/RTI/HQ/CGST&CX/KolNorth/2022/28737 dated 30/03/2022 regarding the captioned subject.

The desired information in this regard is furnished as below:

PART-A: Not relevant to this section. Hence no comments offered.

PART-B:

1(i) Since no time frame (exact time period) is mentioned in the RTI application, reply to the question regarding the number of physical/manual files and e-files, wherein analysis of legal correctness of Noticee's reply to SCN is concerned, cannot be provided.

(ii) Since no time frame (exact time period) is mentioned in the RTI application, the relevant information cannot be provided.

(iii) Since no time frame (exact time period) is mentioned in the RTI application, the relevant information cannot be provided.

(iv) Since no time frame (exact time period) is mentioned in the RTI application, the relevant information cannot be provided.

PART-C: Not relevant to this section. Hence no comments offered.

This is for information and necessary action at your end.

CR Rajah
05.04.2022

(Dr. CR Rajah)

Assistant Commissioner (Adjudication)

Kolkata North CGST & CX Commissionerate

RTI



F. No. GCCO/RTI/APP/282/2022-O/o. Pr CC-CGST-ZONE-Kolkata/3772-80 Date: 25/03/2022.

To,
The CPIO,
Kolkata North / Kolkata South / Howrah/Haldia / Bolpur / Siliguri/
Appeal-I/Appeal-II/Siliguri Appeal
CGST & CX Commissionerate/

Sir,

Sub: RTI Application filed by Shri Jugal Krishna Paul under Right to Information Act, 2005- req.


Please find enclosed herewith an RTI application having Registration No. GSTKT/R/T/22/00025 dated 21.03.2022 (along with PDF attached) filed online by **Shri Jugal Krishna Paul**,

It appears that the information sought by the applicant against Part-B of the said RTI application pertains to your Commissionerate. Hence, the RTI Application is transferred to your office under section 6(3) of the RTI Act, 2005.

You are requested to provide the information for part-B of RTI application directly to the applicant within the due date as specified under RTI Act, 2005 under intimation to this office.

Yours faithfully,

Encl: As Above.


(B.Krishna) 24/3/22
Assitant Commissioner (CPIO)
Pr. CCO, Kolkata Zone

F. No. GCCO/RTI/APP/282/2022-O/o. Pr CC-CGST-ZONE-Kolkata/

Date: /03/2022.

Copy for information to:-

1. **Shri Jugal Krishna Paul, Progati Nagar, Chuchura- R.S. Hooghly, Pin- 712102.** In case of filing RTI first appeal, you are requested to apply it directly before the First Appellate Authority of the Commissionerate where your RTI application is being transferred u/s. 6(3) of the RTI Act, 2005 as this office cannot transfer RTI First Appeal application to another First Appellate Authority [Reference: The FAA, CIC in the matter of Sri Freddy Pareira file No. CIC/AA/A/2013/22-Decision dated 23/02/2013].

(B.Krishna)
Assitant Commissioner (CPIO)
Pr. CCO, Kolkata Zone

5:10 PM

RTI REQUEST DETAILS

Registration No. : GSTKTR/122/00025

Date of Receipt : 21-03-2022

Transferred From : Central Board of Excise and Customs - Central Excise on 21/03/2022 With Reference Number - CB&E R F-22/00208

Remarks : For supply of information please.

Type of Receipt : Electronically Transferred from Other Public Authority

Language of Request : English

Gender : Male

Name : Jugal Krishna Paul

Address :

State : West Bengal

Country : India

Phone No. :

Mobile No. :

Email :

Status(Rural/Urban) : Rural

Education Status : Graduate

Letter No. : Details not provided

Letter Date : Details not provided

Is Requester Below Poverty Line ? : No

Citizenship Status : Indian

Amount Paid : 0 (RTI fee is received by Central Board of Excise and Customs - Central Excise (original recipient))

Mode of Payment : Payment Gateway

Does it concern the life or Liberty of a Person ? : No(Normal)

Request Pertains to :

Information Sought : Please find the RTI Application in the Attachment

Original RTI Text : Please find the RTI Application in the Attachment.

Print Save Close

The CPIO, CBIC, North Block, New Delhi.

RTI through online portal.

Sir,

The undersigned wish to get the following information & documents/records under the RTI Act 2005:

PART-A (Regarding the complaint / letter dated 02/02/2022 of Shri P. C. Nayak, the learned ADC, Haldia CGST&CX Commissionerate, as mentioned in the note sheets Page Nos. 38 to 44 of physical / manual File No. II(3)27-ET/Supdt/Pr.CCO/CGST&CX/Kol/18 of the Pr.CC, CGST&CX, Kolkata Zone's office):

- (1) Attested Photo copy of the said complaint / letter dated 02.02.2022 of Shri P. C. Nayak, the learned ADC, Haldia CGST&CX Commissionerate, which has been mentioned in the said note sheets as the basis for issuance of Office Order No. 17/2022 dated 02.02.2022 & Office Order No. 19/2022 Dated 04.02.2022;
- (2) Mode of communication/receipt of the said complaint / letter dated 02.02.2022 of Shri P. C. Nayak, the learned ADC, Haldia CGST&CX Commissionerate in the office of the Hon'ble Principal Chief Commissioner, CGST&CX, Kolkata Zone;
- (3) Computer Number of any single e-office file wherein any lawful order of Shri P. C. Nayak, the learned ADC, Haldia CGST&CX Commissionerate was not carried out by the Superintendent, namely Shri Jugal Krishna Paul (the instant RTI applicant);
- (4) Computer Number of any single e-office file of Adjudication section, HQ, Haldia CGST&CX Commissionerate, which was pending on the dashboard of the Superintendent, namely Shri Jugal Krishna Paul (the instant RTI applicant) awaiting any action at Superintendent's level as on 31/01/2022;
- (5) Computer Number of any single e-office file of Adjudication section, HQ, Haldia CGST&CX Commissionerate, which was pending on the dashboard of the Superintendent, namely Shri Jugal Krishna Paul (the instant RTI applicant) as on 31/01/2022; &

PART-B (Regarding File handling in Executive Commissionerates & Appeal Commissionerates)

(1) Number of physical /manual files and e-office files of the Executive Commissionerates & Appeal Commissionerates of CBIC wherein –

- (i) analyses of legal correctness of Noticee's reply to SCN or
- (ii) drafting of 'Discussion, Findings, &/or Order-in-Original(OIO)s' or
- (iii) judging correctness of OIOs, giving Grounds of Appeal against OIO & /or writing 'Review Order' or
- (iv) analysis of correctness of noticees' appeal against OIO, & /or correctness of noticees' reply against department's appeal against OIO **have/had been done by the Inspector(s) &/or Superintendent(s) instead of** being done by the relevant competent authorities, namely AC/DC/JC/ADC/Commissioner/Pr.Commissioner.

PART-C (Regarding the letter dated 29/11/2021 about illegal orders & 56J-threats of Shri P. C. Nayak, the learned ADC, Haldia CGST&CX Commissionerate (copy enclosed for ready reference), as received in the office of the Principal Commissioner / Commissioner, Haldia CGST&CX Commissionerate) on 29/11/2021:

- (1) Attested photo copies of all note sheets & correspondences of the e-office file(s) or physical /manual files of office of the Central Board of Indirect Taxes & Customs (CBIC), North Block, New Delhi wherein the said letter dated 29/11/2021 has been placed & processed;
- (2) Attested photo copies of all note sheets & correspondences of the e-office file(s) or physical /manual files of office of the Principal Chief Commissioner / Chief Commissioner of CGST & Central Excise, Kolkata Zone, Kolkata wherein the said letter dated 29/11/2021 has been placed & processed; AND
- (3) Attested photo copies of all note sheets & correspondences of the e-office file(s) or physical /manual files of office of the Commissioner / Pr.Commissioner, Haldia CGST&CX Commissionerate wherein the said letter dated 29/11/2021 has been placed & processed.

This application for information is being filed through online and the applicant undertakes to pay the additional amount/ amounts of fees / charges as would require to pay for the attested photo copies of documents/records sought for in terms of RTI Act 2005.

With most regards,

Yours faithfully,

JUGAL KRISHNA PAUL,

PROGATI NAGAR, POST. CHUCHURA-RS, DIST. HOOGHLY, WB, PIN: 712 102.

[THROUGH PROPER CHANNEL]

To
The Hon'ble Pr. Chief Commissioner,
Central Tax (CGST&CX), Kolkata Zone,
GST Bhavan, 180, Rajdanga Main Road, Shanti Pally,
Kolkata - 700130 107.

Respected Sir,

Subject: Intimation of (1) giving threat to propose name of officers (Inspectors & Superintendents) for removal from service under Rule 56J for their non-placing of complete adjudication order including Discussions-Findings & Order portion, and (2) passing of Provincial parochial comments against the people of West Bengal - by Shri Prakash Chandra Nayak, the Hon'ble Additional Commissioner, CGST&CX, Haldia Commissionerate Regarding.

The undersigned beg to submit the following untoward incidents which took place at the office chamber of Shri Prakash Chandra Nayak, the Hon'ble Additional Commissioner, CGST&CX, Haldia Commissionerate (hereinafter referred to as 'the ADC') at about 4.30 PM of 26th November 2021.

At about 4.30 ^{PM} Hrs. of 26/11/2021, the ADC called all the officers (Inspectors & Superintendents) of the Adjudication Section at his office Chamber [at M.S. Building, Custom house, Kolkata] and asked as to why instead of preparing and putting up complete Adjudication Orders only 'Brief Facts' of cases have been placed before him (in the e-Office) and scolded all the officers left & right. Then, staring at all the officers one by one, he threatened that, for such unwillingness to perform (i.e. for non-preparation & non-placing of the file with complete Order-in-Original including Discussions-Findings & order portion), he will propose the names of all officers for removal from service under Rule 56J. He repeatedly warned all the officers to be careful before placing such files without complete Adjudication order. Keeping all the officers (Inspectors & Superintendents) in standing position for about 10 minutes stay at his Chamber, he repeatedly threatened that he will send all those files, if placed before him without putting up complete Adjudication Order by the Inspectors/Superintendents of Adjudication Section, along with proposal for removal of the officers (Inspectors & Superintendents) concerned from service under Rule 56J to the Pr. CC.

After scolding and threatening 56J repeatedly for a few minutes, all on a sudden, he began uttering words with Provincial parochialism. The ADC warned that all the officers should "be careful" and should not try to create any difficulty for him (the ADC) by putting up file up to "Brief Facts" only. Taking one step farther, the ADC warned all the officers that the officers being locals of West Bengal should not try to create any difficulty for him (the ADC), it will be of no use.

On being submitted (by the undersigned Superintendent) that the job of Discussion, Findings & Passing Order are the prerogative of the Adjudicating Authority, the ADC got angry & furious and asked my name (for reasons best known to him).

In this context, we may go through Para No. 10, 14.6. & 14.7 of the Master Circular on Show Cause Notice, Adjudication and Recovery as issued by the Board vide CBEC's F.NO 96 1/2017-CX.1 Dated: 19th January, 2017, which read as under

"10 Adjudication: Officers of Central Excise have been vested with powers under Section 33A of Central Excise Act 1944 to adjudicate the Show cause notice issued to the noticees and answerable to the officers. They, in their capacity as adjudicating officers act as quasi-judicial officers

14.6 Analysis of issues: The Adjudicating authority is expected to examine all evidences, issues and material on record, analyse those in the context of alleged charges in the show cause notice. He is also expected to examine each of the points raised in the reply to the SCN and accept or reject them with cogent reasoning. After the analysis of facts and law, adjudicating authority is expected to record his observations and findings in the adjudication order

Contd. to Page-2.

Jugal Kishore Paul
29.11.2021

14.7 Body of the order: The adjudication order should generally contain brief facts of the case, written and oral submissions by the party, observation of the adjudicating authority on the evidences on record and facts of omission and commission during personal hearing and finally the operating order.”

Thus, it appears from the aforesaid Para 10, 14.6 & 14.7 of the said Master Circular that Adjudication of any Show Cause Notice is a quasi-judicial process, and in their capacity as adjudicating officers, the Officers act as quasi-judicial officers. The adjudicating officer has to apply his own mind to examine all evidences, issues and material on record, analyse those in the context of alleged charges in the show cause notice. He is also expected to examine each of the points raised in the reply to the SCN and accept or reject them with cogent reasoning. After due analysis of facts and law, adjudicating authority is expected to record his observations and findings in the adjudication order. Thus, it appears crystal clear that assistants / subordinate officers cannot discuss / evaluate / analyse facts in order to give findings since such act of assistants / subordinates would certainly influence the independent thought process of the adjudicating officer and thereby would vitiate the whole adjudication Order in the eyes of Law.

However, such a harsh behaviour, use of threat to use 56J against subordinate officers, shirking responsibility and passing of grossly Provincialparochial observation against inhabitants of any State (West Bengal) of the country is grossly undesirable and unbecoming of any PublicServant of Government of India.

Under these compelling circumstances, I beg to request your honourable Highness to kindly initiate appropriate disciplinary proceedings against said Shri Prakash Chandra Nayak, the Hon'ble Additional Commissioner, CGST&CX, Haldia Commissionerate.

With most regards,

Yours faithfully,

Jugal Krishna Paul
29.11.2021

(JUGAL KRISHNA PAUL),
SUPERINTENDENT, CGST&CX,
ADJUDICATION (HQ), HALDIA COMMISSIONERATE.

Copy to:

- ✓ (1) the Chairman, CBIC, North Block, New Delhi for his kind intimation & necessary action;
- ✓ (2) the Hon'ble Finance Minister, Government of India for kind intimation and perusal of her Magnanimous Highness;&
- ✓ (3) the Hon'ble Chief Minister, Government of West Bengal for kind intimation and perusal of her Magnanimous Highness.

Jugal Krishna Paul
29.11.2021
(JUGAL KRISHNA PAUL),
SUPERINTENDENT, CGST&CX,
ADJUDICATION (HQ),
HALDIA COMMI TE.

