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08/04/19

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**MOST URGENT**  
**RTI MATTER**

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

1<sup>ST</sup> FLOOR:180, SHANTIPALLY, RAJDANGA MAIN ROAD, E.M BYPASS KOLKATA-700107  
C. No. V(30)39/RTI/HQ/CGST & CX/Kol-North/2019/

To  
Shri Ram Ratan Roy,  
Joint General Manager (Credit Control),  
Electrosteel Castings Limited,  
G K Tower, 19, Camac Street,  
Kolkata-700017.

Dated: -  
*Shri D. Mitra, Emp.*  
*R. Roy*  
*09/04/19*

Sir/Madam,

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

Please refer to your RTI application dt. 16.03.2019, under RTI Act, 2005, received by this Commissionerate on 22.03.2019. The said RTI application has been registered at this office vide Registration No. 31/RTI/Kol-North/19 dt. 26.03.2019.

The desired information as received- from Assistant Commissioner, (T&R), under C.No. V(30)2/T&R/CE/Kol-III/KDH/42/2017/129 dated 02.04.2019 and Assistant Commissioner(Adjn), under C.No V(15)04/North CGST & CX/ADJN/RTI/17/9009 dt. 29.2019 of 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 1<sup>st</sup> Appellate Authority namely Sri Sydney D'Silva, Joint Commissioner, CGST & CX, Kolkata-North Commissionerate, O/o The Principal Commissioner of CGST & CE, Room No. 117, Kendriya Utpad Shulk Bhawan, 180, Shantipally, Rajdanga Main Road, Kolkata-700107.

Encl- 03 (Two) Sheets.

Yours faithfully,

*Signature of Samiran Roy*

(Samiran Roy)  
CPIO & Assistant Commissioner  
CGST: Kol-North Comm'te

*P.R. no 583*

- 8 APR 2019

Copy forwarded for information to: -

1. The Assisnat Commissioner (Systems), Computer Cell, CGST & CX, Kolkata North Commissionerate with a request to upload the RTI application submitted by Shri Ram Ratan Roy, dt. 16.03.019 along with the desired information as mentioned above (enclosed eight sheets).

*Signature of Samiran Roy*  
(Samiran Roy) 874119

CPIO & Assistant Commissioner  
CGST: Kol-North Comm'te.

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29/3/19

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Dameney  
Supdt (CGST)



GOVERNMENT OF INDIA  
OFFICE OF THE PRINCIPAL COMMISSIONER  
SERVICE TAX - I COMMISSIONERATE, KOLKATA  
KENDRIYA UTPAD SHULK BHAWAN,  
180, RAJDANGA MAIN ROAD, SHANTIPALLY, KOLKATA - 700 137

C. No. V(15)04/NORTH CGST & CX/ADJN/RTI/17/19009

DATE:- 29 MAR 2019

To  
The CPIO & Assistant Commissioner,  
HQ, RTI Cell,  
CGST & Kolkata North Commissionerate,  
Kolkata,

Sub: RTI application dt.16.03.2019 filed by Shri Ram Ratan Roy, Kolkata-700017,  
transfer under Sec.6(1) of RTI Act,2005 -Reg

\*\*\*\*\*

Please refer to the letter C.No.V(30)39/RTI/HQ/CGST&CX/Kol-North/19/8641  
dated.26.03.2019 on the above mentioned subject.

This is to inform you that, no documents pertaining to the query is available with  
this section.

D.Sarkar.  
28/3/19.

(D.SARKAR)

ASSISTANT COMMISSIONER (ADJN)  
CGST & CX KOLKATA NORTH COMMISSIONERATE

R-2/4/19

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2/4/19



*Domestic  
Sapt (RTI) 2/4/19  
Shri Sant...*



**GOVERNMENT OF INDIA**

**OFFICE OF THE PR. COMMISSIONER OF CENTRAL GOODS AND SERVICE TAX & CX**  
KOLKATA NORTH COMMISSIONERATE, HDQR. TRIBUNAL  
CGST BHAWAN, 180, SHANTIPALLY, RAJDANGA MAIN ROAD

**C.No:** V(30)2/T&R/CE/Kol-III/KDH/42/2017//129

Dated:

2 APR 2019

To  
The CPIO & Assistant Commissioner  
HQ, RTI Cell  
CGST & CX, Kolkata North

**Subject:** RTI applications dt.26.03.2019 filed by Shri Ram Ratan Roy,  
Kolkata - 700017 u/s 6(1) of RTI Act, 2005 - regarding.

Please refer to your letters under **(i)** C.No. V(30)37/RTI/HQ/CGST&CX/Kol-North/2019/8645, dt. 26.03.19; **(ii)** C.No. V(30)39/RTI/HQ/CGST&CX/Kol-North/2019/8642, dt.26.03.19; **(iii)** C.No. V(30)38/RTI/HQ/CGST&CX/ Kol-North/2019/8638, dt. 26.03.19 on the above mentioned subject.

As per available records, the desired information is being enclosed in Annex-I for your information and necessary action at your end please.

*Subrata Kar*  
Assistant Commissioner (T&R)  
CGST & CX, Kolkata (N) Commissionerate

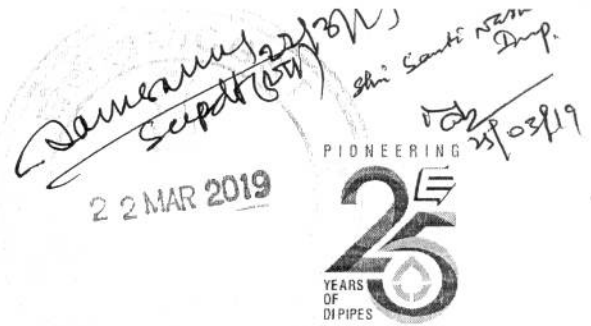
**ANNEXURE-I**

Sl. No.	Information required	Reply
<b>(i) C.No. V(30)37/RTI/HQ/CGST&amp;CX/Kol-North/2019/8645, dt. 26.03.19</b>		
1	Copies of Note sheet entries i.e. observation /opinions/comments between Adjudication Branch & Review Branch of the Commissioner CGST&CX, Kolkata North Comm'te.	<b>Not related to this section.</b> All desired documents may be obtained from CCO (Review Cell) & HQ Adj.
	NSP entries for filing appeal before CESTAT as directed by the Committee of CC.	02 sheets [marked as A]
	Copy of Review Order No. 19/Review/16-17, dt:02.02.17 forwarded by the AC, CCO vide letter dated 03.02.2017.	06 sheets [marked as B]
	Copy of Appeal Application in form EA-5 with forwarding letter dt:14.02.2017.	10 sheets [marked as C]
	Copy of letter dated 16.11.2017 to the Registrar, CESTAT, EZB.	01 sheet [marked as D]
	Copy of MA for Early Hearing dated 29.11.2017 & 25.02.2019	(03 + 02) sheets [marked as E]
<b>(ii) C.No. V(30)39/RTI/HQ/CGST&amp;CX/Kol-North/2019/8642, dt.26.03.19</b>		
1 (a)	Whether CESTAT Order MO/75027/19 & FO/75074/19 dt:07.01.19 [M/s. Electrosteel Casting Ltd.] stands accepted by deptt. or not.	Received in this office on 12.02.2019 and the same is under the process of review.
1(b)	Copies of relevant file note sheets related to review of the said O/O by the esteemed department.	<b>Not related to this Section.</b> [Review of OIO: 05-09/COMMR/CE/KOL-III/16-17, dt:21.07.16 is dealt by CCO, Review Cell. Copies of relevant file NSP may be obtained from CCO (Review Cell)]
<b>(iii) C.No. V(30)38/RTI/HQ/CGST&amp;CX/ Kol-North/2019/8638, dt. 26.03.19</b>		
1 (a)	Whether OIO: 18/COMMR/CGST&CX/KOL/NORTH/17-18, dt:28.11.17 with corrigendum dt: 23.01.18 stands accepted by the department or not.	<b>Not related to this Section.</b> [Review of OIO: 18/COMMR/CE/KOL-III/17-18, dt:28.11.17 is dealt by CCO (Review Cell). Copies of relevant file NSP may be obtained from CCO (Review Cell)]
1(b)	Copies of relevant file note sheets related to review of the said O/O by the esteemed department.	

*Handwritten notes:*  
 ✓  
 with  
 08/4/19  
 Suprat T22

# ELECTROSTEEL CASTINGS LIMITED

B. T. Road, Khardah, P. O. Sukchar, Kolkata 700 115, India  
Tel : +91 33-71014300, 71014450 Fax : +91 33-71014501 to 4504  
CIN : L27310OR1955PLC000310  
Web : www.electrosteelcastings.com



APPLICATION FOR SEEKING INFORMATION  
UNDER SECTION 6(1) OF THE RIGHT TO INFORMATION ACT, 2005

To  
**The Public Information Officer,  
Office of the Commissioner,  
CGST & CX Kolkata North Comm'te,,  
GST Bhawan ; 180, Rajdanga Main Road ; Shantipally,  
KOLKATA - 700 107**

Date: 16.03.2019

Dear Sir,  
I am a citizen of India.  
Please furnish the following information to me at my address specified below.

Information required:

1. Please provide just the simple information sought as below:
  - (a) Whether the **Order of CESTAT- KOL vide Order No. MO/75027/2019 & FO/75074/2019 DATED 07.01.2019- [Electrosteel Castings Limited Vs. Commr. of Central Excise Kolkata-III]** passed by the Hon'ble CESTAT Kolkata stands ACCPTED by the department or not. [Copy of the said CESTAT Judgment **attached** for ease of reference please.]
  - (b) Copies of relevant file note-sheets related to review of the said O/O by the esteemed department.
2. To the best of my knowledge and belief, the above information does not relate to section 8 & 9 of the RTI Act, 2005 which are exempted from disclosure.
3. Whether the information sought concern the life and liberty of a person? NO - since the application relates to factual & legal position only and the esteemed Department is furnishing such information on that premises in terms of the provisions & spirit of the RTI Act.
4. Details of fees paid: Fees of Rs. 10/- for application + Fees of Rs. 40/- for copies of information i.e. total Rs. 50/- paid through IPO vide No. 78G 244586 dt. 18.03.19 in favour of **A.C.A.O. CGST & CX KOLKATA NORTH.**
5. Fees for providing photocopies of the information, **if further required** as per law, would be paid accordingly & immediately on receipt of written communication from your end.

Thanking you,  
Yours faithfully,

**(RAM RATAN ROY)**  
Joint General Manager (Credit Control)  
Electrosteel Castings Limited  
G.K.Tower, 19, Camac Street, Kolkata-700 017  
Mob: +91-9903911379, email: [rrroy@electrosteel.com](mailto:rrroy@electrosteel.com)

Encl: (i) Fees payment document &  
(ii) Copy of the CESTAT Judgment MO/75027/2019 & FO/75074/2019 dt. 07.01.19

Follow the Electrosteel Group on



H.O. : 19, Camac Street, Kolkata 700 017  
Tel : +91 33-7103 4400, 2283 9990, Fax : +91 33-2289 4340  
Regd. Office : Rathod Colony, Rajgangpur, Sundergarh, Odisha 770 017



Website : www.cestatnew.gov.in  
Mail : cestatkolokata@gmail.com

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL:**  
169, A.J.C. Bose Road, 7th Floor, Bamboo Villa, Kolkata-700014

Order Forwarding Letter

EH Application No. : E/MA(EH)/77446/2018  
Appeal No. :E/76785/2016-DB

To,  
Appellant  
Electrosteel Castings Ltd

Respondent  
Commissioner of Central Excise, Customs  
& Service Tax-Kolkata-iii

I am directed to send herewith a certified copy of the Misc Order No. 75027 / 2019 & Final Order No. 75074/2019 dated on 07/01/2019 ,passed by the Tribunal under Section 129 B of the Customs Act 1962/Section 35C of the Central Excise Act 1944/Section 86 (7) of the Finance Act 1994.

Dated: 24/01/2019

(Deputy Registrar)  
CESTAT, EZB, KOLKATA

To:

**Electrosteel Castings Ltd**  
30 B T Road Po Sukchar, KOLKATA, WEST BENGAL, 700115

**Commissioner of Central Excise, Customs & Service Tax-  
Kolkata-iii**  
Central Revenue Building, Rourkela Commissionerate, Nayabazar,  
Rourkela, Dist. - Sundargarh, Odisha-769004

Copy forwarded to : 1. Advocate/Consultant: Shri P. K. Chattopadhyay

2. Jt. CDR CESTAT Kolkata.

3. The Bar Association.

4. Guard File.

5. M/s Centax Publication (P) Ltd., 1512-8, Bhisu Pitamah Marg. Opposite Sachdeva PT. Colony, New Delhi-110003.

6. Taxman Allied Service(P) Ltd. ,59/32, New Rohtak Road, New Delhi-110005.

7. Company Laws Institute of India Pvt. Ltd. No.2 (Old No. 36), Vaidharam Street, Thyagaraya Nagar, Chennai-600017.

8. M/s Mark Professional Services Pvt. Ltd. 7-1-618/EV/108, Flat No. 108, Everest Block, Aditya Enclave, Arnoerpel, Hyderabad-500038.

9. M/s Easy Service Tax online Dot Com Pvt. Ltd., 407 A Iscon Mall, above Star India Bazaar, Satellite Road, Ahmedabad-15, Gujarat.

10. M/s LawCrux Advisors (P) Ltd., Law House, 1-8, Sector 10, Faridabad-121003 (Haryana).

11. 2nd Folder.

(Deputy Registrar)  
CESTAT, EZB, KOLKATA

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE  
TRIBUNAL, KOLKATA  
EASTERN ZONAL BENCH: KOLKATA

E/MA(EH)-77446/2018

And

Appeal No. E/76785/2016

(Arising out of Order-in-Original No. 05-09/COMMR/CE/KOL-III/2016-17 dated 21.07.2016 passed by the Commissioner of Central Excise, Kolkata.)

M/s. Electrosteel Casting Ltd.

Appellant (s)

**Vs.**

Commr. of Central Excise Kolkata-III

Respondent (s)

Appearance:

Shri P. K. Chattopadhyay, Consultant for the Appellant (s)  
Shri S. S. Chattopadhyay, Suptd. (A.R.) for the Revenue

**CORAM:**

**HON'BLE SHRI P. K. CHOUDHARY, MEMBER (JUDICIAL)**  
**HON'BLE SHRI V. PADMANABHAN, MEMBER (TECHNICAL)**

Date of Hearing: -07.01.2019

Order No. No. 75027/2019, FO/75074/2019

**PER SHRI P. K. CHOUDHARY**

The present Miscellaneous Application has been filed for early hearing of the appeal.

2. In view of the submissions as mentioned by the Ld. Advocate for the appellant and in view of the reasons explained in the application, the early hearing is granted.

3. We observe that the issue in appeal lies in a narrow compass and accordingly, the appeal itself is taken up for hearing with the consent of both sides.

4. Brief facts of the case are that M/s. Electrosteel Casting Limited, the Appellant, is engaged in the manufacture and export of Ductile Iron pipes and fittings classifiable under Chapter 73 of the CETA. The appellant

PK

**Appeal No. E/76785/2016**

operates under the CENVAT Credit Scheme and had availed Cenvat Credit of service tax on inter alia 3 services, viz. Customs House Agent (CHA), Port Services and Steamer Agent Services at the Port of shipment for export of its finished goods on F.O.B. basis. Proceedings were initiated against the Appellant vide Show-cause Notice dated 25/01/2012, proposing to deny the Cenvat Credit of service tax on these three services used by the Appellant for exporting its finished goods on the purported ground that the services were used outside the factory premises and not being in relation to manufacture of their finished goods and therefore, did not qualify as an input service within the meaning of Rule 2 (f) of the CENVAT Credit Rules ('CCR'), 2004 as prevalent during the period upto March, 2009.

5. After the due process of adjudication, vide the impugned orders, CENVAT Credit was denied by Department. Aggrieved by the impugned orders, the present appeal is filed.

6. With the above background, we heard Shri P. K. Chattopadhyay, Consultant for the appellants and Shri S. S. Chattopadhyay, Suptd. (A.R.) for the Department.

7. It is the submission of the Ld. Counsel for the appellant that the Adjudicating Authority has accepted the fact that the place of removal in the case of export is the port of shipment. However, he submitted that the three services have been denied on the ground that these services were used for clearance "from the place of removal and not upto the place of removal". He further, submitted that CENVAT Credit on services used upto the place of removal including the port has been allotted under the category of input services in the case of export of goods. He cited the following case laws in support of his argument:



**Appeal No. E/76785/2016**

- i) Commr. of Central Excise Vs. Inductotherm India Pvt. Ltd. [2014 (36) STR 994 (Guj.)]
- ii) Coca Cola India Pvt. Ltd. Vs. Commr. of Central Excise, Pune-III [2009 (15) S.T.R. 657 (Bom.)]
- iii) Kenrametal India Ltd. Vs. Commr. of C. Ex., LTU, Bangalore [2016 (46) S.T.R. 57 (Tri.-Bang.)]
- iv) Ballarpur Industries Ltd. Vs. Commr. of C. Ex., Pune-III [2014 (36) S.T.R. 1122 (Tri.-Mumbari)]
- v) Adani Port & Special Economic Zone Ltd. Vs. C.S.T., Ahmedabad [2016 (42) S.T.R. 1010 (Tri.-Ahmd.)]
- vi) Lamtuf Plastics Ltd. Vs. Commr. of Central Excise, Customs & Service Tax, Hyderabad-II [2016 (46) S.T.R. 388 (Tri.-Bang.)]
- vii) Hema Engineering Industries Ltd. Vs. Commr. of C. Ex., Delhi-III [2016 (46) S.T.R. 439 (Tri.-Del.)]
- viii) Monarch Catalyst Pvt. Ltd. Vs. Commr. of C.E., Thane-I [2016 (41) S.T.R. 904 (Tri.-Mumbai)]
- ix) CBEC Circular No. 999/6/2015-CX dated 28/02/2015
- X) Commr. of C. Ex., Nagpur Vs. Ultratech Cement Ltd. [2010 (20) S.T.R. 577 (Bom.)]
- (xi) Bell Ceramic Ltd Vs. Commr. of C. Ex., Bangalore [2011 (21) S.T.R. 417 (Tri.-Bang.)]
- (xii) M/s. DSEI Sagar Vs. Commr. of Central Excise, Lucknow [2012-TIOU-903 (Tri.-Lucknow)]
- (xiii) Commr. of Central Excise, Ahmedabad Vs. M/s. Engco Natural Polymers Pvt. Ltd. [2012 (12) TMT 526 CESTAT AHMEDABAD]

A1

**Appeal No. E/76785/2016**

8. Ld. D. R. justified the impugned order. He justified the denial of CENVAT Credit for the reason that such services were used to clear the goods from the port but not utilized to clear the goods upto the place of removal.

9. After hearing both sides and on perusal of the record of the case, we find that the department has denied the CENVAT Credit of the following services:-

- (i) CHA Services
- (ii) Port Services
- (iii) Steamer Agent service

Such services have been denied during the period Feb 2011 to May 2014. Admittedly, such services have been utilized by the appellant in carrying out the export of the goods manufactured in their factory. During the period, the definition of input service under Rule 2 (1) of the CENVAT Credit Rules, 2004 is as under:-

*"1[(1) "Input service" means any service-*

- (i) Used by a provider of 2[output service] for providing an output service; or*
- (ii) Used by the manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products, upto the place of removal,*

*And includes services used in relation to modernization, renovation or repairs of a factor, premises of provider of output service or an office relating to such factory of premises, advertisement or sales promotion, market research, storage upto the place of removal, procurement of inputs, accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, security, business exhibition, legal services, inward transportation of inputs or capital*

goods and outward transportation upto the place of removal.]”

10. There is no dispute about the fact that the goods have been exported. In such cases the place of removal is the port where the export of goods is loaded on to the vessel. In spite of the same, the Adjudicating Authority has denied such credit. We note that Hon'ble High Court of Gujarat in the case of Inductotherm India Pvt. Ltd. (Supra) has granted the credit of CENVAT Credit for Cargo Handling Services used for clearance of final product from the port for export. The Hon'ble High Court observed that:

“22. The question that begs the decision is as to whether cargo handling services can be said to have been used in or in relation to manufacture and clearance of final product upto the place of removal, which is port. Admittedly, there is no express inclusion of cargo handling service in the definition of 'input service'. However, in light of the decisions rendered in this area, such interpretation can be made holding that in case of export of final product, place of removal would be port of shipment and not factory gate and therefore, the manufacturer would be entitled to avail the amount claimed towards cargo handling as 'input service' under the Cenvat Credit Rules.”

11. Even though, the Hon'ble High Court has held that with regard to 'Cargo Handling service', we find that the same ratio will be applicable to all three services which are in dispute before us since, all of them have been rendered in the port for export of goods.

12. By following the decision of the Hon'ble High Court, we conclude that the appellant will be entitled to CENVAT Credit. Accordingly, the impugned orders are set aside and appeals are allowed.

Sd/-  
(V. PADMANABHAN)  
MEMBER (TECHNICAL)

Sd/-  
(P. K. CHOUDHARY)  
MEMBER (JUDICIAL)

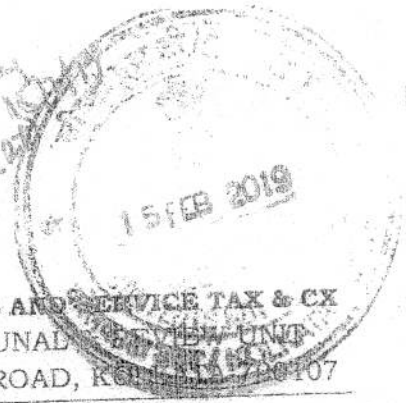
Pooja

TRR



GOVERNMENT OF INDIA

OFFICE OF THE PR. COMMISSIONER OF CENTRAL GOODS AND SERVICE TAX & CX  
KOLKATA NORTH COMMISSIONERATE, HDQR. TRIBUNAL  
CGST BHAWAN, 180, SHANTIPALLY, RAJDANGA MAIN ROAD, KOLKATA - 700017



4.53

C.No: V(30)64/T&R/GST/Kol(N)/RTI/2017-18 / 4564

Dated:

To  
The CPIO & Assistant Commissioner  
HQ, RTI Cell  
CGST & CX, Kolkata North

Subject: RTI application dt.05.02.2019 filed by Shri Ram Ratan Roy,  
Kolkata - 700017 u/s 6(1) of RTI Act, 2005 - regarding.

Please refer to your letter under C.No: V(30)11/RTI/HQ/CGST&CX/ Kol-  
North/19/3943, dated: 08.02.2019 on the above mentioned subject.

In this connection, it may please be noted that on perusal of the RTI  
Application, it has been observed that the information so sought for by the  
applicant relates to the Order-In-Original passed by the erstwhile Commissioner of  
Kolkata-III Commissionerate. However, as per the provisions of Central Excise Act,  
the Adjudication Orders passed by the Commissioners are reviewed by the  
Committee of Chief Commissioners and accordingly dealt with by CCO, and not by  
T&R unit.

Hence, the desired information regarding acceptance of the instant OIO as  
well as the relevant note sheets will be available in the Review Cell of CCO, Kolkata  
zone and the same may be obtained from them for submitting the RTI reply.

*Subrata Kan*  
15/2/2019

Assistant Commissioner (T&R)  
CGST & CX, Kolkata (N) Commissionerate

C.No: As above/

Date:

Copy to the Assistant Commissioner (Review Cell), CCO for information and furnishing  
the desired particulars as per the enclosed RTI application of Shri Ram Ratan Roy  
forwarded by the CPIO & AC, RTI Cell, Kolkata North, under C.No:  
V(30)11/RTI/HQ/CGST&CX/ Kol-North/19/3943, dated: 08.02.2019.

Assistant Commissioner (T&R)  
CGST & CX, Kolkata (N) Commissionerate