



GOVERNMENT OF INDIA
OFFICE OF THE DEPUTY COMMISSIONER OF CGST & CX
TOLLYGUNGE DIVISION, KOLKATA SOUTH CGST & CX COMMISSIONERATE
GST BHAWAN, 4TH FLOOR, ROOM NO. - 424
180, SHANTIPALLY, RAJDANGA MAIN ROAD, KOLKATA-700107.

C. No. V(30)03/RTI/Tolly/CGST/KS/2018/

464

Dated:- 14/02/2020

To
Royal Touch Fablon Pvt. Ltd.
4, Synagogue Street, 2nd Floor
Kolkata-700 001.

Sir,

**Sub. :- RTI application dated 03.02.2020 filed by Royal Touch Fablon (P) Ltd.
under Right to Information Act, 2005 – reg.**

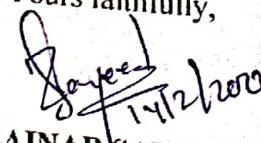
Please refer to your RTI application dated 03.02.2020 which was subsequently registered at this office vide Regn. No. 56/RTI/CGST & CX/Tolly/Kol-South/2020 dated 04.02.2020 on the above subject.

In this regard point wise reply is given as under:-

Point No.	Sought Question	Point Wise Reply
m	Whether any proceedings have been initiated in connection with denial of CENVAT credit taken in Tran-I by an input Service Distributor (ISD) registration?	No proceedings have been initiated.
n	If the answer to question (a) above is in affirmative, kindly provide the copies of all the correspondences in connection with such proceedings.	Not applicable.
o	What is the current status of the aforesaid proceedings?	Not applicable.
p	Whether any proceedings have been initiated in connection with denial of CENVAT credit of Input Service Distributor (ISD) taken in TRAN-I by a registered person?	No proceedings have been initiated.
q	If the answer to question (d) above is in affirmative, kindly provide the copies of all the correspondences in connection with such proceedings.	Not applicable.
r	What is the current status of the aforesaid proceedings?	Not applicable.

If you are not satisfied with the reply, you may prefer an Appeal within 30 (Thirty) days from the date of receipt of this reply before the 1st Appellate Authority, the Joint Commissioner, Office of the Commissioner of Kolkata South CGST & CX Commissionerate at GST Bhawan, 3rd Floor, 180, Shantipally, Rajdanga Main Road, Kolkata – 700107.

Yours faithfully,



(ZAINAB SAYEED)

CPIO & Deputy Commissionerate (RTI)
Tollygunge CGST & CX Division
Kolkata South Commissionerate.

Regn. No. 56 dt. 04/02/2020



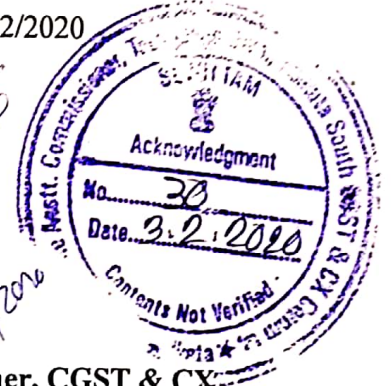
Royal Touch Fablon (P) Ltd.

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

To
The Central Public Information Officer,
Assistant Commissioner, CGST & CX
Tollygunge Division,
Kolkata South Commissionerate
Kendriya Utpad Shulk Bhawan
180, Shantipally, Rajdanga Main Road
Kolkata - 700107

Date: 03/02/2020

Spent RTI
4/2/2020



Kind Attention: Smt Zainab Sayeed, Assistant Commissioner, CGST & CX

Dear Sir,

Sub: - Application under Section 6 of the Right to Information Act, 2005 (RTI Act) for
obtaining information

1.	Name of the Applicant	:	ROYAL TOUCH FABLON PVT LTD
2.	Address	:	4, SYNAGOGUE STREET, 2 ND FLOOR, KOLKATA - 700001
3.	Information sought	:	COPY OF CORRESPONDENCES IN CONNECTION WITH DENIAL OF TRANSITIONAL CREDIT TAKEN IN TRAN-1 BY AN INPUT SERVICE DISTRIBUTOR (ISD)

Details of the Information Sought

M/s Royal Touch Fablon Pvt Ltd. (hereinafter referred to as 'the Company') is engaged inter alia in the manufacture of excisable goods namely HDPE/PP Laminated Woven Fabric & Bags, holding GSTIN No 19AABCR5842F2ZA.

Cont...

Registered Office : 4, Synagogue Street, 2nd Floor, Room No. 202, Kolkata - 700 001
Corporate Office : "Diamond Heritage", 16, Strand Road, 12th Floor, Unit No. N1212, Kolkata - 700 001
Ph : +91 33 6607 9347 / 9348, 2210 4395 / 4413 / 15, 2242 5846, Fax : 91 33 2242 5792, E-mail : info@rtipl.net
CIN : U19202WB1999PTC090687



Royal Touch Fablon (P) Ltd.

[2]

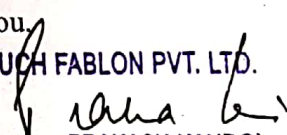
The Company desires to obtain the following information and hence request you to provide the same in accordance with Section 7(1) of the RTI Act:

- m) Whether any proceedings have been initiated in connection with denial of CENVAT credit taken in TRAN-1 by an Input Service distributor (ISD) registration?
- n) If the answer to question (a) above is in affirmative, kindly provide the copies of all the correspondences in connection with such proceedings.
- o) What is the current status of the aforesaid proceedings?
- p) Whether any proceedings have been initiated in connection with denial of CENVAT credit of Input Service Distributor (ISD) taken in TRAN-1 by a registered person?
- q) If the answer to question (d) above is in affirmative, kindly provide the copies of all the correspondences in connection with such proceedings.
- r) What is the current status of the aforesaid proceedings?

The Company states that information sought does not fall within the restrictions contained in the Section 8 & 9 of the RTI Act. It is further stated that the Company is competent and eligible under the RTI Act to seek the above information from you in view of the decision of the Chief Information Commissioner in Complaint Nos. CIC/WB/C/2007/00104 & 105 dated 30 March 2007 (a copy of which is attached herewith, for your ready reference).

The Company has paid application fee of Rs.10/- and fees of Rs. 40/- for documents, totaling to Rs. 50/- vide IPO nos. 198225 to 198231 and 950105 all dated 01/02/2020 in favour of ACAO, CGST & CX, Tollygunge Division and also undertakes to pay further fees or charges for providing the above information, either in print or in electronic media, as and when indicated by you.

ROYAL TOUCH FABLON PVT. LTD.


PRAKASH KANDOI
(Director)

Signature of Applicant

Place: Kolkata
Date: 03/02/2020

Tel. No. (Office) 033 6607 9347
(Res) 033 2242 5846
Postal Address: 4, Synagogue Street,
2nd Floor, Kolkata-700001

Registered Office : 4, Synagogue Street, 2nd Floor, Room No. 202, Kolkata - 700 001
Corporate Office : "Diamond Heritage", 16, Strand Road, 12th Floor, Unit No. N1212, Kolkata - 700 001
Ph : +91 33 6607 9347 / 9348, 2210 4395 / 4413 / 15, 2242 5846, Fax : 91 33 2242 5792, E-mail : info@rtfpl.net
CIN : U19202WB1999PTC090687

CENTRAL INFORMATION COMMISSION

Complaint Nos. CIC/WB/C/2007/00104 & 105 both dated 30.3.2007

Right to Information Act 2005 – Section 18

Appellant - Shri J.C. Talukdar
Respondent - C.E. (E), CPWD, Kolkata

Facts:

Shri J.C. Talukdar of Pan Bazar, Guwahati made two applications to C.E. (E), ER of CPWD Kolkata on 16.2.07, seeking the following information u/s 6(1) of the RTI Act, 2005 on:

1 (a) as to whether a site in Tezpur was handed over in stipulated date in accordance with the Agreement, (b) as to whether on which date the civil fronts were released to us for execution of electric works (c) the date of final completion of the civil works of the building = C/o of resdl. & non-resdl. Accommodation for 5th Assam Rifles at Chariduar, Assam (SH= Pvdg. IEI & Fans for 84 Nos. T-I Qrs. Against agreement No. 08/SE(E)/EE(E)/TZCED/2001-2002;
& 2 release of civil fronts by the civil contractor for residential and non-residential accommodation for 5th Assam Rifles at Chariduar, Assam against agreement no 33 /EE(E)/EE(E)/TZCED/2004-2005, together with some related information.

A fee of Rs 50/- in one case and Rs 30/- in the other was submitted with the requests.

This information was refused by Shri TK Das Dy Director(Admn) through two letters dated 21.3.07, although in the case listed at 1 above, it had been forwarded to EE (EL) Tezpur Central Electric Division on 22.2.'07 requesting that information relevant to his Division be supplied to appellant Shri Talukdar 'urgently', purely on the grounds that it did not fall within sec. 3 of the RTI Act, and the fee returned. Shri Jyotish Chandra Talukdar, Managing Director of

Ganesh Electric Stores has therefore moved two complaint before us u/s 18(b) (c) & (e) of the RTI Act, even though he describes these as "Appeal".

DECISION NOTICE

This is at heart a question of whether a Company or its Director will fall under the definition of citizen under the RTI Act 2005. A company or a Corporation is a "legal person" and, as such, it has a legal entity. This legal entity is distinct from their shareholders, Managers or Managing Directors. This is a settled position in law since the Solomon's case decided long back by the House of Lords. They have rights and obligations and can sue and are sued in a Court of Law. Section 3 of the RTI Act 2005 confers "Right to Information" on all "citizens". A "Citizen" under the Constitution Part II that deals with "citizenship" can only be a natural born person and it does not even by implication include a legal or a juristic person. Section 2(f) of the Citizenship Act defines a person as under:

"Person" does not include a company, an association or

a

Body of individuals whether Incorporated or not."

The objective of the Right to Information Act is to secure access to information to all citizens in order to promote transparency and accountability. The Hon'ble Supreme Court in Bennett Coleman & Co. and Ors. Vs. Union of India (decided in the year 1973) held that a shareholder is entitled to protection of Article 19 and that an individual's right is not lost by reason of the fact that he is a shareholder of the company. The Bank Nationalization case has also established the view that the fundamental rights of shareholders as citizens are not lost when they associate to form a company. In Delhi Cloth and General Mills Co. Ltd. (decided on 21.7.1983), the Apex Court observed that the judicial trend is in the direction of holding that in the matter of fundamental freedoms guaranteed

by Article 19, the right of shareholder and the company which the shareholders have formed are rather co-extensive and the denial to one of the fundamental freedoms would be denial to the other. (Para 12) Even though, therefore the companies and Corporations have not been held to be a citizen, there are number of cases where the Apex Court has granted relief to petitioner companies. One of the case, which can be cited as an example is the Express Newspaper Case. But in such cases, the petitioners have claimed fundamental rights as shareholders or editors of the Newspapers companies. The same was the situation in Sakal Papers Pvt. Ltd. Case.

A question may arise as to whether the case of a Firm is different from that of a company? In this regard following observations of Chagla, C.J. in Iron and Hardware (India) Co. v. Firm Sham Lal and Brothers, (AIR 1954 Bom 423) are pertinent:

*"In my opinion it is clear that there is no such legal entity as a firm. A firm is merely a compendious way of describing certain number of persons who carry on business as partners in a particular name, but in law and in the eye of the law the firm really consists of the individual partners who go to constitute that firm. **Therefore, the persons before the tribunal are the individual partners of the firm and not a legal entity consisting of the firm.**"*

Even if it were conceded that a company or a corporate body is a legal entity distinct from its share holders and it is not in itself a citizen, it is a fact that **all superior Courts have been admitting applications in exercise of their extraordinary jurisdiction from Companies, Societies and Associations under Article 19 of the Constitution of which the RTI Act, 2005 is child.** Very few petitions have been rejected on the ground that the applicants/petitioners are corporate bodies or Companies or Associations and, as such, not "Citizens". This Commission also has been receiving sizeable number of such applications from such entities. If the Courts could give relief to such entities, the PIOs also should not throw them out on a mere technical ground that the applicant /appellant happens to be a legal person and not a citizen.

In conclusion we direct that an application/ appeal from an Association or a Partnership Firm or a Hindu Undivided Family or from some other group of individuals constituted as a body or otherwise should be accepted and allowed. The CPIO, CPWD, Kolkata will dispose of the present application of Shri Talukdar accordingly, as mandated by Secs. 6 and 7 of the RTI Act, 2005 within thirty days of the receipt of this Decision Notice

Notice of this decision be given free of cost to the parties.

(Wajahat Habibullah)
Chief Information Commissioner
17.5.2007

Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges, prescribed under the Act, to the CPIO of this Commission.

(L.C. Singhi)
Addl. Registrar
17.5.2007