



केंद्रीय उत्पाद शुल्क, सीमा शुल्क एवं सेवाकर प्रधान आयुक्त का कार्यालय
पो. बॉ. नं. 81, तेलंगखेडी रोड, सिविल लाईन्स, नागपुर - 440 001.

**ORDER - IN - APPEAL PASSED UNDER SECTION 19 OF THE
RIGHT TO INFORMATION ACT, 2005**

ORDER-IN-APPEAL NO. 02 /2016 DATED 05 .05.2016

आवेदन कर्ता का नाम	श्री रतन चक्रवर्ती, C-85, श्री गणेश नगरी, कोराडी रोड, पेट्रोल पंप के पास नागपुर - 441111 (महाराष्ट्र)
केन्द्रीय लोक सूचना अधिकारी का नाम	श्री ए. जे. वर्मा, केन्द्रीय लोक सूचना अधिकारी तथा अपर. आयुक्त, केन्द्रीय उत्पाद शुल्क, सीमा शुल्क एवं सेवा कर, नागपुर - । .
सूचना अधिकार आवेदन पत्र दिनांक	20.12.2015
केन्द्रीय लोक सूचना अधिकारी का जवाब पत्र दिनांक	15.03.2016
प्रथम अपिल पत्र दाखल दिनांक	06.04.2016

PREAMBLE

1. यह प्रतिलिपी आपके व्यैयक्तीक उपयोग हेतू बिना किसी भूगतान किये जारी है।
2. इस आदेश पत्र प्राप्ती से 90 दिन के भीतर केन्द्रीय सूचना आयोग, दूसरा माला, बि विंग, क्रांति भवन,
भीकाजी कामा प्लेस, नई दिल्ली - 110 066 को सूचना अधिकार अधिनियम 2005 के तहत अपील दायर
कर सकते हैं।

Brief facts of the case:-

1. Shri Ratan Chakraborty C-85, Shree Ganesh Nagari, Koradi Road, Near Patel petrol Pump, Nagpur-441111(MS) (herein after called as the appellant) has filed this appeal on 06.04.2016 under Section 19 of the Right to information Act, 2005 (herein after called as the RTI ACT).
2. The said appeal aroused out of the communication issued by the following CPIO of Custom, Central Excise and Service Tax, Nagpur I Commissionerate.
 - i) CPIO/Deputy Commissioner (RTI) Division Hingna-I letter of F.No. IV(16)01/RTI/2014/H-I/309 dated 11.02.2016.
 - ii) CPIO/Deputy Commissioner (RTI) Division Hingna-II letter of F.No. IV(16)04/RTI/2014/H-II/307 dated 11.02.2016.
 - iii) CPIO/Assistant Commissioner (RTI) Division Butibori-I letter of F.No. IV(16)30-10/RTI/Dn B-I/2014/363 dated 18.02.2016.
 - iv) CPIO/Assistant Commissioner (RTI) Division Butibori-II letter of F.No. IV(16)30-03/RTI/Dn B-II/2014/356 dated 18.02.2016.
 - v) CPIO/Assistant Commissioner (RTI) Division Mihan letter of F.No. IV(16)30-01/RTI/Mihan/2014/375 dated 07.03.2016.

The appellant was not satisfied with the above referred Communication and thus filed this appeal.

3. From the records it is seen that the appellant had filed an application dated 20.12.2015 online with CBEC New Delhi under RTI Act, 2005 and the application was received on 04.02.2016 before CPIO/Deputy Commissioner (RTI) Custom, Central Excise, Nagpur I Commissionerate to provide the following information as stated below:-
 - i) To provide detailed list of Registered Service providers(Division wise) with complete name, address, contact number, e-mail i.d if any, registration number, total tax paid for the current financial year i.e 2015-2016 under Nagpur Commissionerate of Central Excise, Customs and Service Tax, Maharashtra.
 - ii) Also, for such service providers who are defaulters for last more than one year from present period.

4. (a) In response to the Appellant's RTI application dated 20.12.2016 the CPIO/ Deputy Commissioner (RTI) Custom, Central Excise and Service Tax,(RTI) Division Hingna-I / Division Hingna-II and CPIO/Assistant Commissioner Division Butibori-I/II of Nagpur I Commissionerate informed the applicant as under:-

- i. The applicant has sought information in the formats specified by the applicant which are not being maintained by this office.
- ii. As per Section 8(1) d of RTI Act 2005 the term information means-
Information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information.

- iii. Therefore, in view of the above provisions, the information sought for by the applicant cannot be provided vide application dated 20.12.2015 as no larger public interest justifies the disclosure of such information.

- 4 (b) In response to the Appellant's RTI application dated 20.12.2016 the CPIO/Assistant Commissioner Division Mihan of Nagpur I Commissionerate informed the applicant as under:-

As per the O.M.No.11/2/2008-IR dated 10.07.2008 wherein it was stated that the CPIO is required to supply the material in the form held by the public authority and is not required to do research on behalf of the citizen to deduce anything from the material and then supply it to the RTI applicant.

The registration of the assessee's is an online process and there was no manual record maintained related to registration. There was no report menu available in system at range/ Divisional level wherein the information containing all details such as complete name, address, contact number, e-mail id, registration number, total tax paid for the current year i.e. 2015-2016 can be generated in one single report. The preparation of the information with the entire details sought by you would amount to deducing the information from the material which appears to be not in conformity with the circular quoted above. Further, the details of the tax paid for the current financial year 2015-2016 was not ascertainable at that stage as the last date of filing of statutory returns for 2015-2016 by the assessee was not lapsed.

Grounds of appeal

5. Being aggrieved with the CPIO's order/communication, the appellant filed an appeal, the appellant has stated that the order of the CPIO does not sustain the principle and objective of enactment of RTI Act and therefore needs to be set aside.
6. The grounds of appeal as elaborated by the appellant in his appeal are as under:-
- i. CPIO has refused to provide the requested information on the pretext of section 8(d) of the RTI ACT, 2005. The authority concerned has mis- conceived the provision of section 8(d) of the RTI Rules while denying providing information as required by the applicant.
- ii. That the order issuing authority barely takes shelter of Rule 8(d) without explaining any valid reason as to how the information sought can collide the exemption provision enumerated under section 8 supra and hence , does not sustain the principal and objectives of enactment of RTI Act., and therefore needs to be set aside.
- iii. The provision of section 8(d) of the RTI ACT, 2005 under which the CPIO concerned denied providing information against the applicant's request. The appellant reproduced Section 8(d) as under;-

Information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information.

third party's intellectual property or otherwise. Therefore, any such apprehension embedded is bad interpretation of law to disregard the appellants request which cannot be sustainable.

iii. The appellant submitted the copy of judgement of CIC, New Delhi in case of Smt Dhanam velukanthan Vs Office of commissioner of service tax, Chennai passed vide case No. CIC/SS/A/2011/901910 date 20.03.2012 in support of the contention. In this case the Hon'ble CIC has provided the information of the registered service providers to the appellant against her request pertaining to 1(a) and 1(b) in form of CD.

iv. On the question of "**Larger public interest**" and "**privacy**" the appellant submitted that, service tax is a special levy statutorily has larger coverage compared to Customs, Central excise Act, 1944. A considerable group of such providers of services, either lack of sufficient literacy level or have knowledge of the implication of such taxes. It's experienced that some of such kind of service providers. Mostly such service providers who belong from rural or urban areas fall prey to handle the difficulties owing to either payment or compliance to the act. The appellant and some of his associates are working on such areas of educating such service provider so as to benefit them to comply to the law and have a peaceful life at the end of the day, by educating them about the compliance requirement and thereby contribute to the government revenue which is for larger benefit of public as it is a central avenue. At the same time, reduction in litigation process to the appellate arises or generate due to lack of knowledge or partial knowledge about Finance act. Therefore, it absolutely imperative that unless the name, address and contact information are provided, it's extremely difficult to reach out such larger group and fulfil the objective as volunteered service.

Discussion and Finding

9. I have carefully gone through the appellant's appeal dated 06.04.2016 against the CPIO's order / Communication dated 03.12.2015 and the submissions made on 21.04.2016 and the Personal hearing held on 21.04.2016. Further I have also gone through the case records.

(a) At the outset, it must be mentioned that the RTI Act sets out the practical regime of right to information for citizens to secure access to information under the control of public authorities in order to promote transparency and accountability in the working of such authority. The Supreme Court of India has recognised the right to information as a fundamental right of the citizens of India under the article 19 of the Constitution of India. The RTI Act codifies this fundamental right. Section 3 of the RTI Act clearly confers such right on a citizen in as much as it stipulates that – "subject to the provisions of this Act, all citizens shall have the right to information".

(b) The appellant has called for information vide RTI application date 20.12.2015 online with CBEC, New Delhi at under RTI Act, 2005 as under

i. To provide detailed list of Registered Service providers(Division wise) with complete name, address, contact number, e-mail i.d if any, registration number,

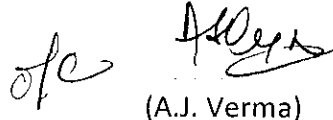
is system generated on payment of additional charges. It can be seen that the name, Address of the assessee and E-mail ID of the assessee is available in the system and can be provided to the RTI applicant.

- (i) Under RTI Act, 2005 only the information readily available with the department needs to be provided. The information about registered service providers **Name, address and e-mail i.d** appears to be available in the system with the department and needs to be provided. The contact details like phone No. cannot be generated in a single format along with the information Name, Address and e-mail i.d of the service providers. as the information is not readily available therefore the contact details like the phone No. cannot be provided.
- (j) The appellant has sought for registration number of the Registered Service Tax assesses. The data base information sought involves the registration numbers of service tax assesseees which is based on PAN Number issued by the Income Tax department i.e to say the first 10 digits of the Service Tax Registration number will be the PAN Number allotted to the assesses by the Income Tax department and the remaining digits relating to service tax Department. I find that CIC vide their decisions in case of Arun Verma, Vs Director General of Income Tax (Systems), New Delhi in appeal No. 05/IC(A)/CIC/2006 dated 03.03.2006 has held that PAN/TAN is confidential in nature. The Service Tax Registration Numbers therefore, cannot be provided to the appellant.
- (k) On going through the RTI application and the appeal of the appellant and the information sought, it is seen that only partial information such as Name, address and e-mail i.d of the Registered Service Tax assesses can be provided. The registration Numbers of the service tax assesseees cannot be provided being confidential. The contact details like phone No. cannot be generated in a single format along with the information Name, Address and e-mail i.d of the service providers. As the information is not readily available therefore the contact details like the phone No. cannot be provided.
- (l) Therefore I set aside the order/Communication passed by CPIO /Deputy Commissioner/Assistant Commissioner division-Hingna I/II, Butibori I/II and mihan of Nagpur-I Commissionerate and pass the order as under:-

ORDER

10. **Accordingly the appeal is partially allowed.** The appellant has sought for the information i.e Name, Address, Contact details, Registration details of Registered Service provider in his appeal dated 06.04.2016. However the appeal is partially allowed and the CPIO/ Deputy Commissioner, Central Excise, Customs and Service Tax, Division Hingna-I/II, CPIO/ Assistant Commissioner Central Excise, Customs and Service Tax, Butibori-I/II and CPIO/ Assistant Commissioner, Central Excise, Customs and Service Tax, Division Mihan, of Nagpur-I Commissionerate, Nagpur are directed to provide the available

information like Name, Contact Address and E-mail i.d of registered Service Provider of Nagpur-I Commissionerate to the applicant Shri Ratan Chakraborty in soft form transformed through E-mail to the appellant at r.c.15071959@gmail.com or on CD as appealed. The information may be provided as per the records within 15 days from the receipt of this order


(A.J. Verma)

Additional Commissioner
First Appellate authority
Customs, Central Excise & service Tax
Nagpur – I Commissionerate

F.No.I(22)02/Appeal/RTI/NGP-I

Nagpur Date 05.05.2016

To
Shri Ratan Chakraborty
C-85, Shree Ganesh Nagari,
Koradi Road,
Near Patel petrol Pump,
Nagpur-441111(MS)

SPEED POST

Copy to:-

1. Central Information Commission second floor B –wing kranti Bhawan Bhikaji Kama place, New Delhi 110066 submitted for information.
2. CPIO/ Deputy Commissioner (Hingna-I), Central Excise, Customs and Service Tax, Headquarters, Nagpur-I Commissionerate, Nagpur for information and to provide the available information like Name, Address, e-mail i.d of registered Service Provider pertaining to their division, to the applicant within 15 days from receipt of the Order-in –Appeal. It is also requested to submit copy of reply to this office.
3. CPIO/ Deputy/Asstt. Commissioner (Hingna-II), Central Excise, Customs and Service Tax, Headquarters, Nagpur-I Commissionerate, Nagpur for information and to provide the available information like Name, Address, e-mail i.d details of registered Service Provider pertaining to their division, to the applicant within 15 days from receipt of the Order-in –Appeal. It is also requested to submit copy of reply to this office.
4. CPIO/ Assistant Commissioner (Butibori-I), Central Excise, Customs and Service Tax, Headquarters, Nagpur-I Commissionerate, Nagpur for information and to provide the available information like Name, Address, e-mail i.d of registered Service Provider pertaining to their division, to the applicant within 15 days from receipt of the Order-in –Appeal. It is also requested to submit copy of reply to this office.
5. CPIO/ Assistant Commissioner (Butibori-II), Central Excise, Customs and Service Tax, Headquarters, Nagpur-I Commissionerate, Nagpur for information and to provide the available information like Name, Address, e-mail i.d of registered Service Provider pertaining to their division, to the applicant within 15 days from receipt of the Order-in –Appeal. It is also requested to submit copy of reply to this office.
6. CPIO/ Assistant Commissioner (Mihan), Central Excise, Customs and Service Tax, Headquarters, Nagpur-I Commissionerate, Nagpur for information and to provide the available information like Name, Address, e-mail i.d of registered Service Provider pertaining to their division, to the applicant within 15 days from receipt of the Order-in –Appeal. It is also requested to submit copy of reply to this office.


(A.J. Verma)
Additional Commissioner

First Appellate authority
Customs, Central Excise & service Tax
Nagpur – I Commissionerate