

**OFFICE OF THE PRINCIPAL COMMISSIONER, CENTRAL EXCISE CUSTOMS AND
SERVICE TAX, NAGPUR – I COMMISSIONERATE**

TELENGKHEDI ROAD, CIVIL LINES, NAGPUR -440001.

Phone No. 0712-2560283, 2560725, 2560813, 2560892, 2561394,

FAX No.2565068

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

ORDER-IN-APPEAL NO. 05/2016 DATED 10.01.2017

आवेदन कर्ता का नाम	Shri Nirmal Sukhdeo Randive, 608 Naik Road, Mahal, Nagpur-440032 (MS)
केन्द्रीय लोक सूचना अधिकारी का नाम	Pradip Gurumurthy केन्द्रीय लोक सूचना अधिकारी तथा उप आयुक्त, केन्द्रीय उत्पाद शुल्क, सीमा शुल्क एवम सेवा कर, मुख्यालय, नागपुर-1.
सूचना अधिकार आवेदन पत्र तथा विनती पत्र दिनांक	10.10.2016
केन्द्रीय लोक सूचना अधिकारी का जवाब पत्र दिनांक	19.10.2016
प्रथम अपील पत्र दाखल दिनांक	13.12.2016

PREAMBLE

1. यह प्रतिलिपी आपके व्यैयक्तिक उपयोग हेतु 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 Nirmal Sukhdeo Randive, 608, Naik road, Mahal Nagpur-440032(MS) (herein after called as the appellant) has filed this appeal on 13.12.2016 under Section 19 of the Right to information Act, 2005 (herein after called as the RTI ACT).
2. The said appeal aroused as the appellant did not receive the information called for within 30 days, from the date of filing of RTI application as per the provision of right to Information Act, 2005.
3. From the records it is seen that the appellant had filed an application dated 10.10.2016 under RTI Act, 2005 and the application was received by the department on 14.10.2016 before CPIO/Deputy Commissioner (RTI) Custom, Central Excise, Nagpur I Commissionerate to provide the following information as stated below:-
 - i) During the year 2012 to 2016 the firm Profit Advertisers (India) private limited, Advertisement and Marketing Consultant, Plot No. 4, Flat No. 402, Govind Apartment, Shankar Nagar, Nagpur 440010 has received payment approximately about 10-15 crores in last 3 years from Mahanagar Pallika, Nagpur. To provide an attested statistical information relating to payment of service tax by this agency in the last three years.
 - ii) To provide service Tax registration No. Of the aforesaid agency.
 - iii) Attested copies of the Service Tax return filed by the aforesaid agency during the last three years.
4. In response to the Appellant's RTI application dated 10.10.2016 the CPIO/ Deputy Commissioner (RTI) Custom, Central Excise and Service Tax,(RTI) Headquarter, Nagpur of Nagpur I Commissionerate vide his letter. No. I(22) 61/RTI/NGP-I/2016 dated 19.10.2016 has returned the RTI application to the appellant in original on the grounds as under:-
 - i. The prescribed fee applicable is Rs 10/- for filing the RTI application, which has been paid by way of Court fee stamp, is not a valid payment.
 - ii. Further the payment of fee of Rs 10/- by way of Indian Postal Order, addressed in the name of Shaskiya Mahiti Adikari Commissioner Nagpur- I is not acceptable.

Grounds of appeal

5. The grounds of appeal as elaborated by the appellant in his appeal are as under:-

RTI application was filed with Shaskiya Mahiti Adikari Commissioner Central Excise, Nagpur- I, Kendriya Utpad Central Excise Shulk Bhawan, Civil lines, Nagpur on 20.10.2016 (however the actual date of RTI application is 10.10.2016). As per Right to Information Act, 2005 the CPIO is required to furnish the information to the applicant within 30 days from the date of application. However as no information has been provided within 30 days and thus contravened the provisions of the Right to information Act, 2005 hence the first appeal filed before first appellate Authority. Action needs to be initiated against the Shaskiya Mahiti Adikari for non submission of the information to the applicant within 30 days.

Personal hearing

6. The appellant was given personal hearing on 09.01.2017 at 11:00 hrs, however the appellant did not attend the personal hearing nor did he sought for any adjournment.

Discussion and Finding

7. I have carefully gone through the appellant's appeal dated 13.12.2016. Further I have also gone through the case records.

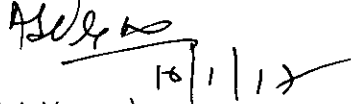
- (a) At the outset, it must be mentioned that the RTI Act sets out the practical regime of right to information for citizens to secure access to information under the control of public authorities in order to promote transparency and accountability in the working of such authority. The Supreme Court 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 10.10.2016 under RTI Act, 2005 as under:-
- i) During the year 2012 to 2016 the agency Profit Advertisers (India) private limited, Advertisement and Marketing Consultant, Plot No. 4, Flat No. 402, Govind Apartment, Shankar Nagar, Nagpur 440010 has received payment approximately about 10-15 crores in last 3 years from Mahanagar Palika, Nagpur. To provide an attested statistical information relating to payment of service tax by this agency in the last three years.
 - ii) To provide service Tax registration No. of the aforesaid agency.
 - iii) Attested copies of the Service Tax return filed by the aforesaid agency during the last three years.
- (c) However the CPIO/ Deputy Commissioner (RTI) Custom, Central Excise and Service Tax, (RTI) Headquarter, Nagpur of Nagpur I Commissionerate has returned the RTI application to the appellant (in original) for not paying the required fees on the grounds as under:-
- i. Fee paid by way of Court fee stamp, is not a valid payment.
 - ii. Further fee paid of Rs 10/- by way of Indian postal order, payable to Shaskiya Mahiti Adikari Commissioner Nagpur- I, is again not acceptable.
 - iii. The applicant was also advised to pay the fee by way of Cash receipt/ banker's cheque/ demand draft and Indian Postal stamp in the name of Chief Accounts Officer, Central Excise and Customs, Nagpur.
- (d) The Right to information (Regulation of Fee and Cost) Rules, 2005 provide that a person seeking information under the RTI Act, 2005 can make payment of fees for obtaining information by cash or demand draft or banker's cheque or Indian Postal Order. According to the rules the demand draft or banker's cheque or Indian Postal Order should be payable to the Accounts Officer of the concerned public Authority.

- (e) However in this case the appellant has paid the fee of Rs 10/- on the basis of **Court Fee stamp** which is an invalid mode of payment. Secondly the appellant has also enclosed **Indian Postal Order (IPO)** of Rs 10/- payable to **Shaskiya Mahiti Adikari Commissioner Nagpur- I**. Where as per The Right to information (Regulation of Fee and Cost) Rules, 2005 the IPO should be payable to the Accounts Officer of the concerned public Authority. Thus the payment of Rs 10/- by way of IPO submitted by the appellant along with the RTI application, not made payable to Accounts Officer again renders the payment as invalid. Thus both the payments made by the applicant were invalid and resulted in non payment of prescribed fees at the time of submission of RTI application.
- (f) Therefore I find that the CPIO/ Deputy Commissioner (RTI) Custom, Central Excise and Service Tax,(RTI) Headquarter, Nagpur of Nagpur I Commissionerate has rightly returned the RTI application (in original) for non payment of the prescribed fee vide his communication of F. No. I(22) 61/RTI/NGP-I/2016 dated 19.10.2016.
- (g) The information called by the appellant in his application dated 10.10.2016 pertains to the agency " Profit Advertisers (India) private limited, Advertisement and Marketing Consultant, Plot No. 4, Flat No. 402, Govind Apartment, Shankar Nagar, Nagpur - 440010". This agency does not fall in the jurisdiction of Nagpur- I Commissionerate whereas the agency falls in the jurisdiction of Nagpur-II Commissionerate. Therefore CPIO of Central Excise, Custom and Service Tax of Nagpur-II Commissionerate is the proper Officer to reply to the present RTI application filed by Shri Nirmal Sukhdeo Randive.
- (h) On the basis of above facts, the CPIO/ Deputy Commissioner (RTI) Custom, Central Excise and Service Tax,(RTI) Headquarter, Nagpur of Nagpur I Commissionerate vide his letter dated F.No. I (22) 61/RTI/NGP-I/2016/217022 dated 30.12.2016 has forwarded the application to CPIO/ Assistant Commissioner (RTI) Custom, Central Excise and Service Tax,(RTI) Headquarter, Nagpur of Nagpur II Commissionerate under Section 6(3) of the RTI Act,2005. Thereby requesting the CPIO to directly reply to the RTI applicant. Copy of the same was also sent to the applicant at the address given by him.
- (i) From the above it can be seen that CPIO / Assistant Commissioner (RTI) Custom, Central Excise and Service Tax (RTI) Headquarter, Nagpur of Nagpur II Commissionerate, was the proper concerned authority to provide the information called by the applicant. The CPIO of Nagpur -I Commissionerate has rightly forwarded the application to the concerned authority for further necessary action under Section 6(3) of the RTI Act, 2005.
- (j) Thus it can be seen that the information being not available with the jurisdiction of Central Excise and Service Tax, Nagpur -I Commissionerate the same cannot be provided.

- (k) Further the appellant was given personal hearing on 09.01.2017 in reference to his appeal, to justify his stand. But the appellant failed to appear personally for the hearing and also did not provide any written submission to prove his stand.

ORDER

8. Accordingly I hereby uphold the decision of the CPIO and dismiss the appeal.
9. If the appellant is aggrieved with the decision of FAA he is free to file appeal with Central Information Commission, 2nd Floor, August Kranti Bhawan, Bhikaji Kama place, New Delhi- 110066 within 90 days from received copy of order in appeal.


(A.J. Verma)
Additional Commissioner
First Appellate authority
Customs, Central Excise & service Tax
Nagpur – I Commissionerate

F.No.I(22)05/Appeal/RTI/2016

885-86
01/02/17


Nagpur Date 10.01.2016
17

To
Shri Nirmal Sukhdeo Randive,
608, Naik road,
Mahal
Nagpur-440032(MS),

SPEED POST

Copy to:-

1. Central Information Commission second floor B –wing kranti Bhawan Bhikaji Kama place, New Delhi 110066 submitted for information.


Superintendent (RTI)
Customs, Central Excise & service Tax
Nagpur – I Commissionerate