



केन्द्रीय कर के प्रधान आयुक्त का कार्यालय
OFFICE OF THE PRINCIPAL COMMISSIONER OF CENTRAL TAX
विशाखापट्टणम केन्द्रीय वस्तु एवं सेवाकर आयुक्तालय
VISAKHAPATNAM CENTRAL GST COMMISSIONERATE
पत्तन क्षेत्र-विशाखापट्टणम ,Port Area, Visakhapatnam-35



पत्र.सं. C.No. IV/16/31/2017-18.RTI

दिनांक Date: 27-02-2018

Order-in-Appeal No. 02/2017-18
(Under the Right to Information Act, 2005)

(Passed by Shri P. Narasimha Rao, Appellate Authority/ Joint Commissioner of Central Tax, Visakhapatnam Central GST Commissionerate, Visakhapatnam)

PREAMBLE

1. This Order-in-Appeal is issued under Section 19 of the Right to Information Act, 2005.
2. An appeal against the Order can be preferred with the Central Information Commission, Old JNU Campus, Block 4, 5th Floor, New Delhi-110067 under Sub-section(3) of Section 19 of the Right to Information Act, 2005.
3. An Appeal against this order must be filed within 90 days from the date of receipt of this order.
4. For further information regarding procedure of appeals, please visit, <http://cic.gov.in>.

Sub: Right to Information Act, 2005- Appeal filed by Smt. K.Kalyani – Decision under Section 19(1) of the RTI Act, 2005 – Communicated - Regarding.

This is an appeal filed by Smt. K. Kalyani w/o Sri Kalaka Ramdas, (hereinafter referred to as the 'Appellant') vide letter dated 22.01.18 (received in this office on 29.01.18) against the information provided vide letter C.No.IV/30/01/2017-RTI dated 09.05.17 by the CPIO (Assistant Commissioner of Central Excise, Customs & Service Tax, Division I-A (erstwhile), Visakhapatnam.

BRIEF FACTS OF THE CASE:

2. Smt. K. Kalyani had sought information pertaining to the salary particulars of her husband Sri Kalaka Ramdas, Superintendent, vide application dated 24.04.17 filed with this office. As, Sri K. Ramdas was working in Division I-A (erstwhile), Visakhapatnam at the time, the application was transferred under Section 6(3) of the RTI Act, 2005, to

Division I-A, Visakhapatnam vide this office letter C.No.IV/16/50/16-17(RTI) dt.03.05.17, with a request to provide the requisite information directly to the appellant.

3. The CPIO, Division I-A, Visakhapatnam vide letter C.No. IV/30/01/2017-RTI dated 09.05.17, communicated the decision of the CPIO as under:

"You are seeking the personal information of a Govt. servant but not the information on the factual position of records/data kept in this office as per statutory requirement. Hence this office is not obliged to provide the information as requested by you as the same is hit by bar of Section 8(j) of RTI Act, 2005".

4. Subsequently, the appellant again filed another application dated 01.11.17 seeking the full salary particulars of her husband Sri Kalaka Ramdas with the CPIO, Central CGST Division, as Sri Kalaka Ramdas was now working in the CGST Division (Central), Visakhapatnam. However, the appellant was informed vide letter C.No. V/30/11/2017-RTI dt.28.11.17 that the application was not taken into consideration by the CPIO, Central CGST Division, as a decision in the matter was already taken by the CPIO as communicated vide letter C.No. IV/30/01/2017-RTI dated 09.05.17. The appellant was further informed that if she was aggrieved by the CPIO's decision dated 09.05.17, she may file an appeal with the Appellate authority and the particulars of the Appellate authority for filing appeal were detailed therein.

5. Hence, aggrieved by the reply furnished by the CPIO, Division I-A (ertswhile) vide letter C.No. IV/30/01/2017-RTI dated 09.05.17, the appellant has filed the present appeal under the RTI Act, 2005, with the First Appellate Authority. As per the grounds of appeal, the appellant has stated that *"As a wife I am entitled to seek the salary particulars of my husband. I am not a third party. Kindly consider my application though there is a delay seeking salary particulars of my husband Sri Kalaka Ramdas, in the interest of justice"*.

PERSONAL HEARING:

6. A personal hearing was granted to the appellant on 20.02.2018. The appellant Smt. K. Kalyani attended the hearing. At the outset she was shown the provisions of Section 19(1) of the RTI Act, 2005, wherein the time limit of 30 days for first appeal is enshrined and requested to furnish any

justifications for condonation of the delay. The appellant stated that due to her poor understanding of RTI law and the distressing times she is undergoing along with the fact that she was staying 500 Kms away from Visakhapatnam, she could not file the appeal in time and requested for condonation of delay.

9. The appellant once again requested for information pertaining to the salary particulars of her husband Sri Kalaka Ramdas.

DISCUSSIONS AND FINDINGS:

10. I have carefully considered the case records placed before me and also the oral submissions made by the appellant during the personal hearing.

11. At the outset I find that the reasons put forth by the appellant Smt. K. Kalyani for the delay in filing the appeal are valid and she is in distress due to the circumstances being faced by her. Hence, I condone the delay in filing the appeal by the appellant.

12. The appellant has requested for the latest salary particulars of her husband Sri Kalaka Ramdas so as to produce the same in court for claiming maintenance.

13. As per the Assistant Commissioner of Central Tax, CGST Division (Central), Visakhapatnam's letter in C.No.II/39/01/2012-Estt-RTI dated 23.02.2018, it is ascertained from the Service Book of Sri Kalaka Ramdas that Smt. K. Kalyani is his legally wedded wife.

13. Also, as per the Office Memorandum issued by the Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training of no.1/32/2013-R dated 28.11.2013, under the RTI Act, 2005, the public authorities have the obligation to disclose the monthly emoluments paid to their employees. Section 4(1)(b)(x) of the Act, specifically stipulates that "the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations" should be published.

14. Further, the Hon'ble Information Commissioner vide the Central Information Commission order in File No.CIC/AD/A/2012/003341SA dated 07.01.2014 in the case of *Ms. Jyoti Seherawat vs Government Of Nct Of Delhi*, has held that every spouse has a right to information about the salary particulars of the other, especially for the purpose of maintenance. The order stated that the husband, as an earning member of family, has a legal duty to maintain the wife and children and therefore, when the wife is seeking the

salary particulars of the Husband, from the public authority where he is working as public servant, it is the duty of the public authority to render required assistance by providing necessary information to her to secure justice. The commissioner further said that the details about a government employee's salary is no third party information and these have to be voluntarily disclosed under Section 4(1)(b)(x) of the RTI Act, 2005, and therefore, the information about the salary of employee or an officer of the same public authority cannot be considered as a third party information.

15. Therefore, in view of the above legal position I hold that the appellant is within her rights in requesting for the salary particulars of her husband and accordingly I proceed to pass the following order.

ORDER

The appeal filed by the appellant Smt. K. Kalyani w/o Sri Kalaka Ramdas is allowed. I direct the Assistant Commissioner of Central Tax (CPIO), Visakhapatnam CGST Division (Central), Visakhapatnam to provide the salary particulars as sought by the appellant within one week of receipt of this order.

*P. Narasimha Rao -
27-2-18*

(P.NARASIMHA RAO)
JOINT COMMISSIONER
FIRST APPELLATE AUTHORITY

To,
Smt. K. Kalyani,
c/o Sri P. Surya Prakash,
39-21-16/2/2,
Sankar Nagar, Madhavadhara,
Visakhapatnam - 530 007.

Copy submitted to:

The Commissioner of Central Tax, Visakhapatnam CGST
Commissionerate, Visakhapatnam - 530 035

Copy to

1. The CPIO/Assistant Commissioner of Central Tax, CGST Division
(Central), Visakhapatnam Commissionerate, 3rd Floor, 28-14-10,
Suryabagh, Visakhapatnam - 530 020.

✓ 2. The Superintendent (Systems) - for uploading into Departmental
Website.