



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/16/94/2018.RTI

दिनांक Date:15-04-2019

Order-in-Appeal No. 01/2019-20

(Under the Right to Information Act, 2005)

(Passed by Shri S. Narasimha Reddy, First Appellate Authority/ Additional 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 Shri Niraj Bhusari - Decision under Section 19(1) of the RTI Act, 2005 - Communicated - Regarding.

This is an appeal filed by Sri Niraj Bhusari, (hereinafter referred to as the 'Appellant') vide Appeal dated 15.03.19 (received in this office on 18.03.2019) against the non-providing of information by the CPIO (Assistant Commissioner of Central Tax, Central GST Commissionerate (South), Visakhapatnam.

BRIEF FACTS OF THE CASE:

2. The applicant had earlier sought information from the CPIO, CCO (VZ) vide letter dated 12.01.2019, which was transferred to this office vide CCO letter C.No.V/30/30/2018-CC(VZ) dated 23.01.2019, for further action. As the information requested therein pertained to rebate claims filed by M/s. Bagadiya Brothers, Chhattisgarh and were dealt by the erstwhile Divisions II, II, IV and V of the then Visakhapatnam Comm'rate, the same were

transferred to the present North, Central, South and Vizianagaram CGST Divisions vide Hqrs., letter C.No.IV/16/89/2018-RTI dated 25.01.2019, for providing the information directly to the applicant.

3. Subsequently, the CPIO, North and Vizianagaram Divisions communicated 'NIL' reply to the assessee as they had no such claims. The CPIO, Central Division provided the information as available with them. However, the CPIO, South Division denied information to the applicant under the premise that the information pertained to a third party.

4. Hence, the applicant has filed the present appeal against the denial of information by the CPIO, CGST Division (South), and requested to instruct the concerned CPIO to give the complete information.

PERSONAL HEARING:

5. A personal hearing was granted to the appellant on 04.04.2019. The appellant Sri Niraj Bhusari attended the hearing. At the outset he submitted that he was an employee with M/s.Bagadiya Brothers, Raipur, Chattisgarh and that the information pertaining to the rebate claims was requested from the Department as their own copies were not traceable. He further submitted that information against the same RTI application was provided by the Deputy Commissioner of Central Tax (CPIO), CGST Division (Central). Hence, there was no reason for the denial of information by the Deputy Commissioner of Central Tax (CPIO), CGST Division (South).

He further submitted that, if it was felt that the information was third party information, then the CPIO was at liberty to seek consent from M/s. Bagadiya Brothers, Chattisgarh. Hence, the appellant requested that the Deputy Commissioner of Central Tax (CPIO), CGST Division (South) may be asked to provided the requested information. He had nothing more to add.

DISCUSSIONS AND FINDINGS:

6. I have carefully gone through the appellant's RTI application dated 12.01.2019 (received in this office on 23.01.2019) and the appeal filed dated 15.03.2019 and the related documents.

7. As seen therein, the appellant Shri Niraj Bhusari, vide RTI application dated 12.01.2019, sought information pertaining to certain rebate claims filed by M/s. Bagadiya Brothers, Chhattisgarh which was transferred to this office vide CCO letter C.No.V/30/30/2018-CC(VZ) dated 23.01.2019, for further action. As the information requested therein pertained to rebate

claims which were dealt by the erstwhile Divisions II, II, IV and V of the then Visakhapatnam Comm'rate, the same were transferred to the present North, Central, South and Vizianagaram CGST Divisions vide Hqrs., letter C.No.IV/16/89/2018-RTI dated 25.01.2019, for providing the information directly to the applicant.

8. The CPIO, North and Vizianagaram Divisions communicated 'NIL' reply to the assessee as they had no such claims. Further, the CPIO, Central Division provided the information as available with them. However, the CPIO, South Division vide letter C.No.V/30/23/2019-RTI dated 18.02.2019, has denied information to the applicant under the premise that the information pertained to a third party.

9. As seen from the copy of the reply, the Assistant Commissioner of Central Tax (CPIO), CGST Division (South) stated therein that there is no obligation to provide information of third party or information available in fiduciary relationship to any citizen under the provisions of Section 8(1)(d) and Section 8(1)(e) of the Right to Information Act, 2005. The CPIO further stated that as per the provisions of Section 8(1)(j) of the RTI Act, there is no obligation to provide personal information which has no relation to any public activity or interest. Hence, the application was rejected by the CPIO.

10. At the outset, I find that the appellant Shri. Niraj Bhusari is an employee of M/s. Bagadiya Brothers, Chattisgarh as evidenced from the visiting card produced by the appellant. Further, as seen from the Assistant Commissioner of Central Tax (CPIO), CGST Division (Central)'s reply to the appellant vide letter C.No.V/30/11/2017-RTI dated 21.02.2019, consent was obtained from M/s. Bagadiya Brothers Pvt. Ltd., by e-mail for providing the required information.

11. I also find that the Assistant Commissioner of Central Tax (CPIO), CGST Division (South) has not followed the procedure laid down under Section 11 of the RTI Act, 2005, before rejecting the request of the appellant on the basis of being third party/ personal information.

12. Under the circumstances, I opine that the information requested by the appellant may be provided to the extent admissible under the RTI Act, 2005 as per the procedure laid down under Section 11 of the RTI Act, 2005, to be followed in such cases.

13. In view of the above findings, I proceed to pass the following order.

ORDER

The appeal filed by the appellant Shri Niraj Bhusari vide the Appeal dated 15.03.2019, is allowed. Accordingly, the Assistant Commissioner of Central Tax (CPIO), CGST Division (South), Visakhapatnam may provide the requested information, to the extent admissible under the RTI Act, 2005, after following the procedure laid down under Section 11 of the RTI Act, 2005.


(S. NARASIMHA REDDY)
ADDITIONAL COMMISSIONER
FIRST APPELLATE AUTHORITY

To,

Shri Niraj Bhusari,

Ground Floor, Bagadiya Mansion,

Jawahar Nagar, Raipur,

CHATTISGARH – 492 001.

Copy submitted to:

The Principal Commissioner of Central Tax, CGST Commissionerate,
GST Bhavan, Visakhapatnam – 530 035.

Copy to

1. The CPIO/Assistant Commissioner of Central Tax, CGST Division (South), CGST Commissionerate, Visakhapatnam.
2. The Superintendent (Systems) – for uploading into Departmental Website.