



C.No. IV/16/11/2021-22-RTI

Date:- 20.10.2021

Order-in-Appeal No.04/2021-22
(Under the Right to Information Act, 2005)

(Order passed by Shri Ravi Kiran Edara, First Appellate Authority/ Additional Commissioner of Central Tax, Visakhapatnam Central GST Commissionerate, Visakhapatnam)

प्रस्तावना/PREAMBLE

1. यह आदेश आर.टी.आई अधिनियम 2005 की धारा 19 के अंतर्गत जारी किया गया है।
This Order-in-Appeal is issued under Section 19 of the Right to Information Act, 2005.
2. यदि आप इस आदेश से संतुष्ट न हो ,तो आप केंद्रीय सूचना आयोग ,पुराने जेएनयू कैंपस, ब्लॉक 4,5वीं मंजिल, नई दिल्ली -110067 के सम्मुख आर.टी.आई अधिनियम, 2005 की धारा 19 की उप-धारा (3) के अंतर्गत एक अपील दायर कर सकते हैं।
An appeal against the Order can be preferred to 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. इस आदेश की प्राप्ति की तारीख से 90 दिनों के भीतर अपील दायर किया जाना चाहिए।
An Appeal against this order must be filed within 90 days from the date of receipt of this order.
4. कृपया अपील की प्रक्रिया से संबंधित अधिक जानकारी के लिए : <http://cic.gov.in> में देखें।
For further information regarding procedure of appeals, please visit, <http://cbic.gov.in>.

Sub: Right to Information Act, 2005- Appeal filed by Shri K.K.Sivakumar under Section 19(1) of the RTI Act, 2005 – Communication of order – Regarding.

This is an appeal filed under Section 19(1) of the RTI Act, 2005 by Shri K.K.Sivakumar, (herein after referred to as the “Appellant”), vide letter dated 07.09.2021 (received in this office on 28.09.2021) against the reply given by the CPIO /Deputy Commissioner of Central Tax, Kakinada Central GST Division, Kakinada expressing dissatisfaction in respect of information provided by the above said CPIO.

BRIEF FACTS OF THE CASE:

2. Earlier, the appellant filed an RTI application dated 07.08.2021 with the CPIO, Hqrs, Central GST Commissionerate, Visakhapatnam (RTI application was also forwarded to all Divisions of the Commissionerate by Hqrs office) under the RTI Act, 2005, seeking information pertaining to Question Nos. 1, 2, 3 & 4 as below:

“Question No. 1: What is the percentage of penalty levied on raw and pure silver when traded without bills or invoice?”

Question No. 2: Is evasion of tax under GST a criminal offence?

Question No. 3: Kindly provide information on differences in terms of percentage when penalty is levied on silver goods during transit and undocumented silver is found during search operations in premises of business.

Question No. 4: What is the maximum penalty levied for evasion of GST in terms of percentage."

3. As the RTI application was also forwarded to Divisions, the CPIO/Deputy Commissioner of Central Tax, Kakinada Central GST Division, Kakinada vide their letter C.No. IV/16/04/2018-Tech (RTI) dated 31.08.2021, replied to the applicant as below:

"Point 1: There are no such cases of raw and pure silver booked in this division.

Point 2 to 4(including additional info): There are penal provisions under Sections 122 to 138 of CGST Act, 2017 depending upon the nature and severity of offence."

4. However, the applicant was aggrieved and expressed that the information given by CPIO/Deputy Commissioner of Central Tax, Kakinada Central GST Division, Kakinada was not satisfactory and submitted the following points of appeal:-

"1. The response of the CPIO is not satisfactory.

2. The CPIO is herewith reminded of the UNHR Declaration signed by India in the year 1948 at Geneva which binds everyone within the territory of the "Nation Named INDIA". Under Article 19 of the UNHR Declaration "Right to Information" is a basic Humanitarian Right which must not be denied. As a public Authority the CPIO must know this fact.

3: Moreover anything held in the office of the concerned Department must be provided when the same is sought as information unless it has exception U/s 24 of RTI Act of 2005. This has to be comprehended by the CPIO.

4. The CPIO in his response has stated that there are no cases of pure silver booked in the concerned division. The information sought was not about the silver cases in the division but the information sought was about the penal charges and levy of fine with respect to the good named "Silver".

5.The answers for Questions 2 to 4 is satisfactory hence no appeal on those questions.

6. The above requested information falls within the right ambit of Information and it is maintained with the POLICY section of every CGST office across the country. So if the CPIO feels that the information is not available in his office he can transfer the same to the office where it is available."

DISCUSSIONS AND FINDINGS:

5. I have carefully gone through the appellant's RTI application dated 07.08.2021 and the appeal filed dated 07.09.2021.

6. The replies provided by the CPIO/Deputy Commissioner of Central Tax, Kakinada Central GST Division, Kakinada are examined. The appellant has mentioned that answers for questions 2 to 4 are satisfactory and only contested the reply for question 1. The reply of the above said CPIO in respect of question 1 is as below:

"There are no such cases of raw and pure silver booked in this division."

I find that the information provided by the CPIO/Deputy Commissioner of Central Tax, Kakinada Central GST Division, Kakinada is not complete.

7. Hence, in this regard, reply to question 1 is given herewith: *Percentage of penalty is levied as per Section 122 of the CGST Act, 2017.*

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

ORDER

The appeal filed by the appellant Shri K.K.Sivakumar under Section 19(1) of the RTI Act, 2005, vide their letter dated 07.09.2021, is disposed off as per above remarks under RTI Act, 2005.

SRV

(RAVI KIRAN EDARA)
ADDITIONAL COMMISSIONER
FIRST APPELLATE AUTHORITY

To,
Shri K.K.Sivakumar
17/77, Arthanari Street,
Shevapet,
Salem-636002.

Copy submitted to:
The Principal Commissioner of Central Tax, CGST Commissionerate, GST Bhavan, Visakhapatnam - 530 035.

Copy to

1. The CPIO/Deputy Commissioner of Central Tax, Kakinada Central GST Division, Kakinada..
2. The Superintendent (Systems) - for uploading into Departmental Website.