



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-35-
Port Area, Visakhapatnam-35



C.No. IV/16/18/2021-22-RTI

Date:-29.12.2021

Order-in-Appeal No.08/2021-22

(Under the Right to Information Act, 2005)

(Order passed by Shri R V Pradhamesh Bhanu, First Appellate Authority/ Joint 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, 5^{वीं} 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 Pilla Ramalingeswara Rao 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 Pilla Ramalingeswara Rao (herein after referred to as the "Appellant") dtd. 29.11.2021 received in this office on 02.12.2021 against the reply given for his RTI application dated 18.10.2021 by the CPIO/Deputy Commissioner of Central Tax, Visakhapatnam CGST Commissionerate, Visakhapatnam, being aggrieved in respect of the information provided by the above said CPIO.

BRIEF FACTS OF THE CASE:

2. Earlier, the appellant filed an RTI application dated 18.10.2021 with the CPIO, Hqrs, Visakhapatnam Central GST Commissionerate, Visakhapatnam. The RTI application was forwarded to Joint Commissioner of Central Tax, Anti Evasion, for reply as the information sought was pertaining to Anti Evasion Section.

The information sought in the application is as below:

"The applicant was inquiring about the action taken by Joint Commissioner of Central Tax, Anti Evasion section, Visakhapatnam CGST Commissionerate, Visakhapatnam on a particular tax payer as communicated by

Directorate General of GST Intelligence, Visakhapatnam Zonal Unit through their letter vide order No. 16/2021 dated 11-10-2021 in light of applicant's complaint with their office earlier."

3. The CPIO / Deputy Commissioner of Central Tax, Visakhapatnam CGST Commissionerate vide their letter GEXCOM/RTI/RPTS/42/2021-TAR-O/o Pr COMMR-CGST-Visakhapatnam dated 29.10.2021 replied to the applicant as below based on the reply received from Anti-Evasion section of Hqrs, Visakhapatnam CGST Commissionerate:

"The investigation on the subject tax payer has already been initiated by Anti-Evasion Section, Visakhapatnam CGST Commissionerate, before receipt of the complaint from DGGI, VZU and is under investigation"

4. However, the applicant being aggrieved and expressed that the information provided by the CPIO/Deputy Commissioner of Central Tax, Visakhapatnam CGST Commissionerate, Visakhapatnam was not proper and submitted the following points of appeal:-

"The CPIO/Deputy Commissioner not given proper information on his reply dated 29-10-2021"

DISCUSSIONS AND FINDINGS:

5. I have carefully gone through the appellant's RTI application dated 18.10.2021 and the appeal filed dated 29.11.2021.

6. The replies provided by the CPIO/Deputy Commissioner of Central Tax, Visakhapatnam CGST Commissionerate are examined. It is observed that the investigation on subject tax payer was in progress when the applicant's RTI application dated 18.10.2021 was received. As per section 8 (1) (h) of RTI Act, 2005, any details pertaining to investigation in progress are exempted from disclosure. The content of section 8(1) (h) is mentioned below for information.

"Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen - information which would impede the process of investigation or apprehension or prosecution of offenders"

7. Below are some important CIC Decisions regarding Exemptions from Disclosure of Information under RTI Act, 2005 where information sought on investigation proceedings were disposed off under Section 8(1)(h) of RTI Act, 2005:

Case law (i):

Shri Vinod Kumar Jain V/s Directorate General of Central Excise Intelligence, New Delhi Appeal No.CIC/AT/A/2010/000969/SS

The Appellant sought the detail of complete proceedings / records of the investigation being carried out against the appellant with regard to enquiry in to the Lakhanpur and Bhanuth / Shambhu check posts in J & K and Punjab respectively as the SCN in the matter has been issued and the investigations are complete. The CPIO denied the information to the Appellant under section 8(1) (h) of the RTI Act, 2005 by stating that the investigation in the matter are still pending in view of Hon"ble CIC"s decision in the case of Shri Shankar Sharma and M/s First Global Stock broking Pvt. Ltd. and others Vs. Directorate of Income Tax, Mumbai.

Decision: Thus, Commission sees no reason to interfere with the order passed by the FAA of the Respondent and hence the same is upheld. The appeal is accordingly dismissed.

Case law (ii):

In the case of Dr. B.L. Malhotra Vs. The National Small Industries Corporation Ltd. (No. 783/IC(A)2007 dated 06.06.2007), the appellant asked for the information which contained material pertaining to corruption involving the appellant, some others officers of respondent and a few business concerns. The major portion of investigation

were still pending/or was contemplated. The information was denied under Section 8(1)(h) by the CPIO.

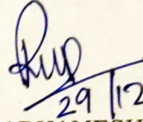
Decision: The information sought contains the details of the individuals as well as business organizations, which are involved in the alleged corruption. The investigation process is in progress and is also contemplated against some other officers and business concern. In view of this, the exemption claimed U/S 8(1)(h) from disclosure of information is justified.

8. Hence, the information furnished by CPIO/Deputy Commissioner of Central Tax, Visakhapatnam CGST Commissionerate is found to be proper.

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

ORDER

The appeal dated 29.11.2021 filed by the appellant Shri Pilla Ramalingeswara Rao under Section 19(1) of the RTI Act, 2005, is disposed off as per above remarks under RTI Act, 2005.


29/12/21

(R V PRADHAMESH BHANU)
JOINT COMMISSIONER
FIRST APPELLATE AUTHORITY

To,
Pilla Ramalingeswara Rao
31-30-04, 2nd Floor,
Narayana Street, Dabagardens,
Visakhapatnam-530020.

Copy submitted to:

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

Copy to:

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