



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/16/47/2017-18.RTI

दिनांक Date: 19-04-2018

**Order-in-Appeal No. 01/2018-19**

(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, 5<sup>th</sup> 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>.

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

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This is an appeal filed by Smt. A. Padma (hereinafter referred to as the 'Appellant') vide letter dated 25.03.18 (received in this office on 29.01.18) against the information provided vide letter C.No.V/30/13/2017-Misc.(RTI) dated 19.03.18 by the CPIO (Assistant Commissioner of Central Tax, CGST Division (South), Visakhapatnam.

**BRIEF FACTS OF THE CASE:**

2. The appellant Smt. A. Padma, vide application dated 26.02.18 filed with the CPIO (Assistant Commissioner of Central Tax), CGST Division (South), Visakhapatnam had sought information as to whether the services done by Agro Forestry department of M/s. Visakhapatnam Steel Plant (RINL), were liable to service tax.

3. The CPIO (Assistant Commissioner of Central Tax), CGST Division (South), Visakhapatnam vide letter C.No.V/30/13/2017-Misc.(RTI) dated 19.03.18, communicated the decision of the CPIO as under:

*“Agro forestry is not specifically defined in Finance Act, 1994. As per Sec.66B of Service Tax Act, Service Tax shall be levied on the value of all services, other than those services specified in the negative list specified under Sec.66D of Service Tax Act. Therefore, there is no information available in this office regarding the Visakhapatnam Steel Plant’s Agro forestry department”.*

4. The appellant was further informed that if she was aggrieved by the CPIO’s decision/ information, she may file an appeal with the Appellate authority and the particulars of the Appellate authority for filing appeal were detailed therein.

5. As the appellant was aggrieved by the reply furnished by the CPIO (Assistant Commissioner of Central Tax), CGST Division (South), Visakhapatnam vide letter C.No.V/30/13/2017-Misc.(RTI) dated 19.03.18, 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 the information requested by her was not provided by the CPIO, CGST Division (South). The appellant further requested to inform whether the Agro Forestry department of M/s. Visakhapatnam Steel Plant (RINL)/ VSP or the work done by the contract agencies under the said department were liable to service tax/GST; whether the Section 66D of the Finance Act, 1994, would apply to the said department; whether agro forestry of M/s. VSP was considered as related to agriculture or to industry etc.

PERSONAL HEARING:

6. A personal hearing was granted to the appellant on 10.04.2018. The appellant, Smt. A. Padma, attended the hearing. The appellant wanted to know the works done by contractors under the Agro-forestry department of M/s.RINL (Visakhapatnam Steel Plant) and the service tax liability on the said works, for which she felt that information was not satisfactorily provided by the CPIO, CGST Division (South). The appellant also wanted GST liability on the services received by the Agro-forestry department of M/s.RINL (Visakhapatnam Steel Plant).



#### DISCUSSIONS AND FINDINGS:

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

8. At the outset, from the application dated 26.02.18 filed by the appellant with the CPIO (Assistant Commissioner of Central Tax), CGST Division (South), Visakhapatnam, I observe that the information requested is in the form of a series of queries such as, *'what is agro forestry, what works are covered by agro forestry, do these works attract service tax/GST or not, and if not why, whether exemption under Section 66D is applicable to these works'* and so on.

9. As per the Section 2(f) of the RTI Act, 2005, *'information'* is defined as any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.

10. From the above, it is clear that for an applicant to be entitled to receive information, the query raised should stand the test of Section 2(f) of the RTI Act, 2005. However, the queries raised by the appellant do not qualify in that test. It is seen from the text as well as the tone and the tenor of this RTI application that it is not about any identifiable information within the meaning of Section 2(f) of the RTI Act, but aims at eliciting respondents' explanations and clarifications about a department working under a third party i.e., M/s. Visakhapatnam Steel Plant. The definition (of information) cannot include within its fold answers to the question "why" which would be the same thing as asking the reason or a justification for a particular thing. The CPIO is responsible to furnish only that information which is readily available in his office. The Public Information Authorities cannot expect to communicate to the citizen the reason why a certain thing was done or not done in the sense of a justification because the citizen makes a requisition about information.

11. Therefore, it is clear that the RTI Act casts no obligation on the respondent to answer such vexatious queries, which do not qualify as *'information'* in terms of Section 2(f) of RTI Act, 2005. Public authorities were not obliged to create information to generate data for a petitioner's

No.CIC/AT/A/2006/00360; Date of Decision: 23.11.2006 and Subhash Chandra Vs. Income Tax Department; Appeal Nos.CIC/AT/A/2007/001 & F.No.CIC/AT/A/2007/ 00291; Date of Decision: 8.6.2007).

12. Similarly, in the case of P.N.Kalra vs CCE, Bhopal (Appeal No.65/IC(A)/2006 F.No.CIC/MA/A/2006/00150) the Hon'ble CIC held that, the CPIO is required to 'provide information', which may be available in any form with his office, rather than giving his 'personal opinion' on the questions asked by the appellant. In the case of Sri K. Anand Kini Vs Canara Bank (appeal No.452/ICPB/2006 F.No.PBA/07/137), Hon'ble CIC, held that under RTI Act, a citizen can seek only information which is available with the Public Authority in material form. The Public Authority is not bound to answer queries like why and what and under what circumstances to the appellant. Moreover, I find that the CPIO, CGST Division (South) has already given whatever information is available with his office vide Order C.No. V/30/13/2017-Misc.RTI dated 19.03.18.

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

**ORDER**

The appeal filed by the appellant Smt. A. Padma is disallowed.

*P. Narasimha Rao*  
19.4.18  
**(P.NARASIMHA RAO)**  
JOINT COMMISSIONER  
FIRST APPELLATE AUTHORITY

To,  
**Smt. A. Padma,**  
31-2-15/22, 5<sup>th</sup> Floor,  
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Ashok Nagar, Opp. Radio Station,  
Kurmannapalem,  
Visakhapatnam - 530 046.

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 (South), Visakhapatnam Commissionerate, 4<sup>th</sup> Floor, SVC Complex, 1<sup>st</sup> Lane, Dwarakanagar, Visakhapatnam - 530 016.