



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



पत्र.सं. C.No. IV/16/64/2017-18.RTI

दिनांक Date: 21-08-2018

Order-in-Appeal No. 03/2018-19
(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, 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 Kandregula Haribabu - Decision under Section 19(1) of the RTI Act, 2005 - Communicated - Regarding.

This is an online appeal filed by Sri Kandregula Haribabu, (hereinafter referred to as the 'Appellant') vide letter no. CECVZ/A/2018/60006 dated 02.08.18 against the information provided vide letter C.No.IV/16/61/2017-18-RTI dated 01.08.18 by the CPIO (Assistant Commissioner of Central Tax, Visakhapatnam CGST Commissionerate.

BRIEF FACTS OF THE CASE:

2. The appellant filed an application no.CECVZ/R/2018/50025 dated 17.07.2018 under the RTI Act, 2005, seeking certain information pertaining to grant of refund of GST paid by him.
3. In the application, the appellant stated that he was a physically disabled person, and had purchased a car (Hyundai make, Grand i10 auto)

under invalid carriage vehicle on 21-04-2018. Prior to the purchase, the appellant had consulted the Hyundai dealer regarding exemption from GST in place of excise duty. However, the dealer had stated that there was no order from the government for exemption of GST under this category. Therefore, the appellant purchased the vehicle by paying GST. Later, the Ministry of Heavy Industries had issued guidelines for issuance of GST concession certificate for purchase of vehicles by the persons with physically handicapped vide order no. 12(42)/2015-AEI(12455) dated 01.05.2018. The appellant had then taken approval from the Ministry of Heavy Industries vide certificate bearing Ref. No. 16(147)/2018-AE1(16003) dated 02.07.2018 for GST concession and approached the dealer for refund, but the dealer stated that they are awaiting reply from M/s. Hyundai Motors Pvt. Ltd.

4. Hence, the appellant filed an RTI application no. CECVZ/R/2018/50025 dated 17.07.2018 under the RTI Act, 2005, with the CPIO (Assistant Commissioner of Central Tax), Visakhapatnam CGST Commissionerate, for knowing GST refund claim procedure.

5. In reply, vide letter C.No.IV/16/61/2017-18-RTI dated 01.08.18, the CPIO informed that *"the reduction in rate of tax for Motor Vehicles for physically handicapped persons from 28% to 18% was envisaged vide entry no. 400 of Schedule-III of Notification No. 1/2017-GST dated 28-6-2017 subject to the condition that the Ministry of Heavy Industries certifies that the goods are capable of being used by the physically handicapped persons. In this case, the question of refund has arisen as the car was purchased at 28% GST before the grant of certificate to the applicant by the Ministry of Heavy Industries. As on date, refund of tax paid on purchase of Motor Vehicle (for physically handicapped persons) consequent upon issue of Certificate by the Ministry of Heavy Industries, is not covered under the existing rules for Refunds. However, as per Section 54, a refund claim can be preferred within two years from the relevant date. As such, it is informed that as on date, the refund rules do not cover your case and that you may apply for refund as and when the rules are made for the said purpose keeping in mind the time limit prescribed there under"*.

6. Aggrieved by the reply furnished by the CPIO (Assistant Commissioner of Central Tax), Visakhapatnam CGST Commissionerate, the appellant Sri K. Haribabu, has filed the present appeal. In the said appeal, he has reiterated the facts stated in the RTI application and pointed out that the dealer could not properly guide the appellant at the time of the purchase of the vehicle. The appellant therefore, requested that in view of the above facts and

circumstances, the request for information pertaining to grant of refund of GST concession be considered in the interests of justice.

PERSONAL HEARING:

7. A personal hearing was granted to the appellant on 14.08.2018. The appellant Sri Kandregula Haribabu, attended the hearing and reiterated the submissions made in the appeal. As there were no specific points on which CPIO had denied any information to him, he was asked to specifically state the grounds of his appeal. The appellant then stated that his main concern was to get refund of the GST paid on his vehicle.

DISCUSSIONS AND FINDINGS:

8. I have carefully gone through the RTI application, the CPIO, Visakhapatnam CGST Commissionerate's reply, the appeal filed by the appellant and the related documents.

9. As seen from the RTI application no. CECVZ/R/2018/50025 dated 17.07.2018 filed under the RTI Act, 2005, with the CPIO (Assistant Commissioner of Central Tax), Visakhapatnam CGST Commissionerate, the appellant had purchased the car (Hyundai make, Grand i10 auto) under invalid carriage vehicle on 21-04-2018 on payment of GST at the applicable rate of 28%. Later, the Ministry of Heavy Industries had issued guidelines for issuance of GST concession certificate for purchase of vehicles by the persons with physically handicapped vide order no. 12(42)/2015-AEI(12455) dated 01.05.2018. From the above, it is clear that the issue has arisen due to the purchase of the vehicle by the appellant prior to the issue of the said order no. 12(42)/2015-AEI(12455) dated 01.05.2018 issued by the Ministry of Heavy Industries.

10. In other words, the question of refund has arisen as the car was purchased at 28% GST, before the grant of certificate to the applicant by the Ministry of Heavy Industries. However, the fact remains that as on date, refund of tax paid on purchase of Motor Vehicle (for physically handicapped persons) consequent upon issue of Certificate by the Ministry of Heavy Industries, is not covered under the existing rules for Refunds. Moreover, as per Section 54, a refund claim can be preferred within two years from the relevant date as and when the rules are made for the said purpose. The same was communicated to the appellant by the CPIO (Assistant Commissioner of Central Tax), Visakhapatnam CGST Commissionerate vide the letter C.No. IV/16/61/2017-18-RTI dated 01.08.18 and I do not perceive

11. Further, on perusal of the RTI appeal dated 02.08.2018 filed online by Shri. Kandregula Haribabu, I find that there are no grounds of appeal alleging any denial of information by the CPIO in its order dated 01.08.2018. His appeal is a narration of facts including the clarification issued by the Department (CGST Commissionerate, Visakhapatnam) regarding his claim for refund of the GST. The appellant's main concern as per the appeal is about getting his GST refund of the differential GST rate of duty of 10% (28% - 18%), for which clarification already given by the Department suffices.

12. In view of the above, as the appeal does not allege non-provision of any information by the CPIO, Visakhapatnam CGST Commissionerate, the same is liable to be dismissed. Therefore, I proceed to pass the following order.

ORDER

The appeal filed by the appellant Shri Kandregula Haribabu against the information provided vide letter C.No.IV/16/61/2017-18.RTI dated 01.08.18 by the CPIO (Assistant Commissioner of Central Tax), Visakhapatnam CGST Commissionerate, is dismissed.

P. Narasimha Rao -
2-8-18
(P.NARASIMHA RAO)
JOINT COMMISSIONER
FIRST APPELLATE AUTHORITY

To,

Shri. Kandregula Hari Babu,
9-20, Vennelapalem,
Paravada,
Visakhapatnam 531021

Copy submitted to:

The Principal Commissioner of Central Excise, Customs & Service Tax,
Visakhapatnam, Commissionerate, Visakhapatnam - 530 035.

Copy to

1. The CPIO/Assistant Commissioner of Central Excise, Customs & Service Tax, Hqrs. Office, Visakhapatnam Commissionerate, Central Excise Building, Port Area, Visakhapatnam - 530 035.
- ✓ 2. The Superintendent (Systems) - for uploading into Departmental Website.