माल और सेवा कर एवं केन्द्रीय उत्पाद शुल्क प्रधान मुख्य आयुक्त कार्यालय
OFFICE OF THE PRINCIPAL CHIEF COMMISSIONER OF GST & CENTRAL EXCISE
केन्द्रीय माल और सेवा कर एवं केन्द्रीय उत्पाद शुल्क अंचल : तमिलनाडु एवं पुदुच्चेरी
CENTRAL GST & CENTRAL EXCISE ZONE : TAMILNADU & PUDUCHERRY
जी एस टी भवन, सं. 26/1, महात्मा गांधी रोड, चेन्नई - 600 034
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आज़ादी का अमृत महोत्सव

GCCO/RTI/FAAA/3/2023-CCAESTT

Dated 11.01.2023

ORDER-IN-APPEAL NO. 01/2023-CCA-RTI(Appeals)

(Order passed by R.Gopalsamy I.R.S.,
Additional Commissioner and First Appellate Authority)

1. This Order-in-Appeal is issued under Sub-Section (1) of Section 19 of the Right to Information Act, 2005.

2. An appeal against this order can be preferred to the Central Information Commission, CIC Bhawan, Baba Gangnath Marg, Munirka, New Delhi – 110 067, 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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Shri Asokaraj S
Plot No. 11, 4th Cross Street,
Anjal Nagar, Madurai,
Tamilnadu – 625 018.

..... Appellant

Versus

The CPIO, Assistant Commissioner,
Office of the Principal Chief Commissioner of GST & Central Excise, Chennai Zone,
26/1, Mahatma Gandhi Road, Nungambakkam,
Chennai – 600034.

..... Respondent

Sub : Right to Information Act, 2005–Shri Asokaraj S – Appeal against the information furnished by the CPIO, Assistant Commissioner vide GCCO/RTI/APP/1310/2022-CCAESTT-O/o PrCC-CGST Zone-Chennai – Passing of Order by First Appellate Authority under RTI Act, 2005 – Reg.

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Shri Asokaraj S, Plot No. 11, 4th Cross Street, Anjal Nagar, Madurai, Tamilnadu – 625 018 (hereinafter referred to as "the appellant") filed an appeal CEXCH/A/E/22/00024 dated 12.12.2022 under the Right to Information Act, 2005 (hereinafter referred to as "the RTI Act") against the reply given by the Central Public Information Officer, Office of the Principal Chief Commissioner of Central Excise, Chennai Zone, vide GCCO/RTI/APP/1310/2022-CCAESTT-O/o PrCCO-CGST Zone-Chennai dated 12.12.2022

2.1 The brief facts of the issue in his RTI application dated 17.11.2022 against which the appellant filed appeal as follows

1. Copy of the CBI's letter dated 20.09.2017 may be supplied
2. Copy of the Notesheet recordings by which and which dealt with in which revocation Of suspension of said officer was revoked and posted to Puducherry Commissionerate.
3. To provide information as to whether third party or other agency can influence the Chief Commissioner or Principal Chief Commissioner in the staff or employee matters including Posting & Transfer, Suspension and revocation, as happened in the case of Asokaraj, Supdt.

3. The CPIO vide letter GCCO/RTI/APP/1310/2022-CCAESTT O/o PRCCO CGST Zone Chennai dated 08.12.2022 furnished reply in respect of the queries mentioned in the said RTI application as below

Point No.1&2; Denied to give the **CBI letter dated 20.09.2017** and the **Note Sheet recordings** which dealt with the revocation of suspension of Shri. S.Asokaraj under Section 8(h) of the RTI Act 2005.

Point No.3: The Chief Commissioner or Principal Chief Commissioner in any posting and transfer matter judiciously takes decision. However he is free to consult other related agency as the case may be with respect to the posting and transfer, suspension and revocation of suspension in respect of any officer as the case may be and finally decide judiciously as happened in the case of Shri.S.Asokaraj, Superintendent

4. Aggrieved by the reply furnished by CPIO, the appellant filed an appeal dated 12.12.2022 before the First Appellate Authority under Section 19(1) of the RTI Act, 2005 and stated that CPIO had provided incomplete, misleading or false information.

DISCUSSIONS & FINDINGS

5. I have carefully gone through the RTI application, reply given by CPIO and appeal filed by the appellant and the comments of the CPIO on appeal

The queries raised by the appellant in his Appeal application are

Point No.1&2 : To provide a copy of the CBI's letter dated 20.09.2017 and a copy of the

Point No.1&2 : To provide a copy of the CBI's letter dated 20.09.2017 and a copy of the Note sheet recordings by which and which dealt with in which revocation of suspension of said officer was revoked and posted to Puducherry Commissionerate.

The CPIO had denied providing the information which is exempt under Section 8(1)(h) of the RTI Act 2005 as the related information cannot be disclosed till the investigations are not fully completed, as held by CIC in the case **Shri Vinod Kumar Jain V/s Directorate General of Central Excise Intelligence, New Delhi Appeal No.CIC/AT/A/2010/000969/SS**. Further it has held that "the term "investigation" used in Section 8(1)(h), in the context of this Act should be interpreted broadly and liberally. We cannot import into RTI Act the technical definition of "investigation" one finds in Criminal Law. Here, investigation would mean all actions of law enforcement, disciplinary proceedings, enquiries, adjudications and so on. Logically, no investigation could be said to be complete unless it has reached a point where the final decision on the basis of that investigation is taken."

However High Court in the judgment Amit Kumar Shrivastava Vs. CIC has held that " **the legal position as settled by this court is that cogent reasons have to be given by the Public Authority as to how and why the investigation or prosecution will get impaired or hampered by giving the information in question. In the impunged order there is no attempt made whatsoever to show as to how giving the information sought for would hamper the investigation and ongoing disciplinary proceedings**"

Hence, the CPIO is required to give reasons as to how and why the investigation or prosecution will get impaired or hampered by giving the information sought for by the appellant..

Point No.3 (Details sought in RTI application application in Point No.6) Please provide the information as to whether third party or other agency can influence the Chief Commissioner or Principal Chief Commissioner in the staff or employee matters including Posting and Transfer, Suspension and revocation, as happened in the case of Asokaraj, Superintendent.

From the above question it can be seen that the appellant had asked certain clarification on the powers of Principal Chief Commissioner in transferring the Staff/employees. As per Para 2 of OM.No.11/2/2008-IR dated 10.07.2008 issued by DOPT has clarified that

Section 2(f) the RTI Act 2005 *which states 'information' means 'any material in any form'. A citizen, under the Act, has a right to get 'material' from a public authority which is held by or under the control of that public authority. The right includes inspection of work, documents, records; taking notes, extracts or certified copies of documents or records; taking certified samples of material; taking information in the form of diskettes, floppies, tapes video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device. Careful reading of the definition of 'information' and 'right to information' makes it clear that a citizen has a right to get the material, inspect the material, take notes from the material, take extracts or certified copies of the material, take samples of the material, take the material in the form of diskettes etc. The PIO is required to supply such material to the citizen who seeks it.* ***The Act, however, does not require the Public Information Officer to deduce some conclusion from the 'material' and supply the conclusion' so deduced to the applicant.*** *The PIO is required tosupply the 'material' in the form as held by the public authority and is not required to do research on behalf of the citizen to deduce anything from the material and then supply it to him.*

Hence it is clear that there is no information sought by the appellant but he had asked certain clarification. Hence the appeal with respect to this point merits rejection.

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

ORDER

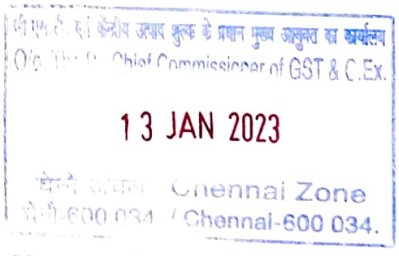
I remand the case back to CPIO for consideration afresh on the above lines in respect of point No.1 and 2 of the Appeal within 30 days of this order and I reject the appeal in respect of Point No.3 as not maintainable under Right to Information Act, 2005.

11/01/2023

(R.GOPALSAMY)
ADDITIONAL COMMISSIONER
FIRST APPELLATE AUTHORITY

Copy to:

Shri Asokaraj S
Plot No. 11, 4th Cross Street,
Anjal Nagar, Madurai,
Tamilnadu – 625 018.



Copy to:
The CPIO, Assistant Commissioner,
Office of the Principal Chief Commissioner of Central Excise, Chennai Zone.