

CENTRAL INFORMATION COMMISSION

2nd Floor, August Kranti Bhawan,
Bhikaji Cama Place, New Delhi-110066

Decision No. CIC/SB/A/2015/000069

Dated 14.10.2016

Appellant : Shri Suresh K.C.,
11, Swati Bungalows,
Near Shiv Ashish School,
Sterling City, Bopal,
Ahmedabad-380058.

Respondent : The Central Public Information Officer,
O/o the Commissioner of Service Tax,
2nd Floor, Central Excise Bhawan,
Opp. Polytechnic, Ambawadi,
Ahmedabad-380015.

Date of Hearing : 14.10.2016

Relevant dates emerging from the appeal:

RTI application filed on : 23.03.2015

CPIO's reply : 08.04.2015

First appeal filed on : 21.04.2015

FAA's order : 14.05.2015

Second appeal filed on : 23.06.2015

ORDER

1. Shri Suresh K.C. filed an application dated 23.03.2015 under the Right to Information Act, 2005 (RTI Act) with the Central Public Information Officer (CPIO), Service Tax Commissionerate, Ahmedabad seeking copies of (1) all inquiry reports till now submitted by his Inquiry officer, Shri B.R. Gagnani, Dy. Commissioner, (2) all note sheets where notes have been put up on receipt

of the above referred Inquiry Reports and (3) all correspondence made with the Inquiry Officer after receipt of all the Inquiry Reports.

2. The appellant filed a second appeal before the Commission on 23.06.2015 on the grounds that the CPIO as well as the First Appellate Authority (FAA) failed to provide him the information sought simply without application of mind and rejected his request informing that information cannot be disclosed as it would impede the process of investigation or apprehension or prosecution and is squarely covered under Section 8(1)(h) of the RTI Act, 2005. The appellant states that the CPIO has not elaborated with adequate reasons under which circumstances Section 8(1)(h) of the RTI Act, 2005 is applicable in the present scenario and that the FAA concluded that as regards supply of copy of note sheet and correspondence, the same will impede the process of prosecution till the final decision of the case.

Hearing:

3. Both the appellant Shri Suresh K.C and the respondent Shri Rajat Chaudhary, Assistant Commissioner and CPIO, Service Tax, Ahmedabad attended the hearing through video conferencing.

4. The appellant submitted that no information has been provided to him in response to his RTI application dated 23.03.2015 on the grounds that the disclosure of the information would impede the process of prosecution.

5. The respondent submitted that under Section 8(1)(h) the term investigation has to be interpreted broadly and liberally. In view of this, till the issuance of the final order, the enquiry against the appellant cannot be considered to be complete. In view of this, information cannot be provided to the appellant as disclosure of the same would impede the process of prosecution of the appellant.

Decision:

6. The Commission, after hearing the submissions of both the parties and perusing the records, agrees with the respondent that since the prosecution of the appellant is pending and has not been completed disclosure of information sought by the appellant is exempted under Section 8(1)(h) of the RTI Act. However, as regards providing copies of the enquiry report the Commission notes that rule 15(2) of the CCS(CCA) Rule, 1965 reads as:

“ 15(2) The disciplinary authority shall forward or cause to be forwarded a copy of the report of the inquiry, if any, held by the disciplinary authority or where the disciplinary authority is not the inquiring authority, a copy of the report of the inquiring authority together with its own tentative reasons for disagreement, if any, with the findings of inquiring authority on any article of charge to the Government servant who shall be required to submit, if he so desires, his written representation or submission to the disciplinary authority within fifteen days, irrespective of whether the report is favourable or not to the Government servant”.

7. In view of the above, in case the enquiry reports have been finalized a copy of the same ought to be provided to the appellant. The Commission, therefore, directs the CPIO to provide copies of the Inquiry Reports which have been finalized to the appellant within a period of four weeks from the date of receipt of a copy of this decision.

8. With the above observations the appeal is disposed of.

9. Copy of decision be given free of cost to the parties.

(Sudhir Bhargava)
Information Commissioner

Authenticated true copy

(V.K. Sharma)
Designated Officer