

		दूरभाष /Telephone:044-28331011 फेक्स /Fax :044-28331113
<p style="text-align: center;">OFFICE OF THE PRINCIPAL CHIEF COMMISSIONER OF GST AND CENTRAL EXCISE TAMILNADU AND PUDUCHERRY ZONE 26/1, महात्मागांधीमार्ग, नुंगम्बाक्कम, चेन्नै-600 034 26/1, Mahatma Gandhi Road, Nungambakkam, Chennai 600 034</p>		

सी सं /C.No.II/39/128/2020-CCA.RTI.APPEAL

दिनांक/Dated : 06/01/2021

ORDER-IN-APPEAL NO. 14/2020-CCA-RTI(Appeals)
(Order passed by B. Senthivelavan 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>

Shri G. Srihari44, Sowbaghyanagar, Thirunagar,
Madurai – 625 006.

..... 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 G. Srihari – Appeal against the information furnished by the CPIO, Assistant Commissioner, vide C.No.II/39/115/2020-CCA.RTI dated 27.11.2020 – Passing of Order by First Appellate Authority under RTI Act, 2005 – Reg.

Shri G. Srihari, 44, Sowbaghyyanagar, Thirunagar, Madurai – 625 006 (hereinafter referred to as “the appellant”) filed an appeal dated 08.12.2020 under the Right to Information Act, 2005 (hereinafter referred to as “the RTI Act”) received in this office on 09.12.2020 against the reply given by the Central Public Information Officer, Office of the Principal Chief Commissioner of Central Excise, Chennai Zone, vide C.No.II/39/115/2020-CCA.RTI dated 27.11.2020.

2.1 The brief facts of the issue are that the appellant in his RTI application dated 27.10.2020 received in this office on 29.10.2020 had sought the following information:

1) Copy of the correspondences and note sheets of the File C.No. II/03/28/2015/CCA.Estt. dated 28.04.2015 dealing with Hon’ble Supreme Court Order dated 05.02.2020.

2) Copy of the review order, if any, issued on implementation of the above said Hon’ble Supreme Court judgement, as stated in para 3(1) of the Order No. 23/2015.

3) Action taken on the above referred Hon’ble Supreme Court judgement dated 05.02.2020 to implement the same.

2.2 The CPIO vide letter C.No. II/39/115/2020-CCA.RTI dated 27.11.2020 furnished reply in respect of the queries mentioned in the said RTI application.

3.1 Aggrieved by the reply furnished by CPIO, the appellant filed an appeal dated 08.12.2020 before the First Appellate Authority under Section 19(1) of the RTI Act, 2005 and stated that CPIO has not given appropriate reply.

3.2 The appellant requested the First Appellate Authority to pass OIA to provide him information as per his RTI application.

DISCUSSIONS & FINDINGS

4. I have carefully gone through the RTI application, reply given by CPIO and appeal filed by the applicant.

5. In this regard, it is informed that no information is available in this office with regard to the judgement of the Hon'ble Supreme Court dated 5.02.2020 in CA No.1970-1975 of 2009 after the pronouncement of the judgement. In addition to this, it was specifically mentioned in the reply to the RTI application that the judgement of the Hon'ble High Court of Andhra Pradesh dated 7.3.2005 was already implemented in this zone. The para 118 of the judgement dated 5.2.2020 reads "In such circumstances, there is no scope for any ambiguity and we are unable to find fault with the order of the High Court". Therefore, accordingly the conclusions were summarized in para 119 and 120 of the judgement.

6. As regards to the Appellant's contention that the judgement should be put up in a file and should be brought to the higher officials' knowledge, attention is invited to DOPT O.M No.1/4/2009-IR dated 05.10.2009 whereby a Guide on the Right to Information Act, 2005 was circulated. Para 10 of Part I of the Guide, inter-alia, stated that 'only such information can be supplied under the Act which already exists and is held by the public authority or held under the control of the public authority. The Public Information Officer is not supposed to create information; or to interpret information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions.' The same issue has been elaborated by the Supreme Court in the matter of Central Board of Secondary Education & Anr. Vs. Aditya Bandhopadhyay & Ors. (Civil Appeal No.6454 of 2011) as follows:

“At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of ‘information’ and ‘right to information’ under clauses (f) and (j) of section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non available information and then furnish it to an applicant. A public authority is also not required to furnish information which require drawing of inferences and/or making of assumptions. It is also not required to provide ‘advice’ or ‘opinion’ to an applicant, nor required to obtain and furnish any ‘opinion’ or ‘advice’ to an applicant. The reference to ‘opinion’ or ‘advice’ in the definition of ‘information’ in section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act.”

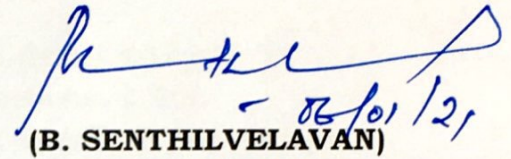
7. The High Court of Bombay at Goa in Writ Petition No A19 of 2007 in the case of Dr. Celsa Pinto Vs. Goa State Information Commission has held on 3.4.2008 that the term 'information' as defined in the Right to Information Act does not include answers to the questions like 'why'. The relevant part of the judgement is reproduced below: *"The definition of information cannot include within its fold answers to the question "why" which would be same thing as asking the reason for a justification for a particular thing. 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. Justifications are matter within the domain of adjudicating authorities and cannot properly be classified as information."*

8. From the foregoing it is informed that the information sought by the applicant was not provided as the same was not available with this office.

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

ORDER

(i) I hold that the information furnished by the CPIO is sufficient and proper and there is no justification in the grievance of the appellant on the same. Hence, I reject the appeal as not maintainable under Right to Information Act, 2005.



(B. SENTHILVELAVAN)

**ADDITIONAL COMMISSIONER
FIRST APPELLATE AUTHORITY**

Copy to:

Shri G. Srihari

44, Sowbaghyyanagar, Thirunagar,
Madurai - 625 006.

[By Speedpost]

Copy to:

The CPIO, Assistant Commissioner,

Office of the Principal Chief Commissioner of Central Excise, Chennai Zone.