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

सी सं /C.No.II/39/57/2020-CCA.RTI.APPEAL

दिनांक/Dated: 17/07/2020

**ORDER-IN-APPEAL NO.05/2020-CCA-RTI(Appeals)**  
**(Order passed by B. Senthilvelavan 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 Thangavelu  
 15/22 AB, 4<sup>th</sup> Street,  
 SM Palayam,  
 GN Mills Post,  
 Coimbatore - 641 029.

..... 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 Thangavelu Appeal against the information furnished by the CPIO, Assistant Commissioner, vide C.No.II/39/48/2020-CCA.RTI dated 01.06.2020 - Passing of Order by First Appellate Authority under RTI Act, 2005 - Reg.

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Shri Thangavelu, 15/22 AB, 4<sup>th</sup> Street, SM Palayam, GN Mills Post, Coimbatore - 641 029 (hereinafter referred to as "the appellant") filed an appeal dated 17.06.2020 online 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 C.No.II/39/48/2020-CCA.RTI dated 01.06.2020.

2. The brief facts of the issue are that the appellant in his RTI application dated 11.04.2020 had sought for copies of the minutes of Review DPC conducted on 20.03.2020 and the entire notings ( relevant note pages) in connection with the said review DPC file.

3. The CPIO vide letter C.No. II/39/48/2020-CCA.RTI dated 01.06.2020 had stated that the proceedings of the DPC are exempt from disclosure under Section 8(1)(j) and hence copy of the Minutes of Review DPC could not be furnished. However, copy of the relevant note sheets pertaining to the Review DPC was furnished to the Appellant.

3.1 Aggrieved by the reply furnished by CPIO, the appellant filed an appeal dated 17.06.2020 online before the First Appellate Authority under Section 19(1) of the RTI Act, 2005 and stated that he was not satisfied with CPIO's reply.

3.2 The appellant requested the First Appellate Authority to pass an Order 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. The appellant has sought the minutes of the Review DPC held on 20.03.2020 contending that the disclosure of DPC minutes ensures that fairness in action and transparency in public administration has been ensured while conducting the DPC proceedings and therefore denial of DPC minutes is inconsistent with the legal position under RTI Act, 2005 and that the same cannot be denied under Section 8(1)(j) RTI Act, 2005. The information sought is of confidential nature. It is informed that the note and minutes of DPC are exempt from disclosure under Section 8(1)(e) & 8(1)(j) of RTI Act, 2005. It is also informed that the DPC contains confidential information about other officers, and also information as regards denial of promotion on account of various reasons such as disciplinary cases etc. are personal in nature and do not warrant disclosure.



6. In this regard, attention is invited to the judgment rendered in W.P.(C) 7923/2013 dated 21.11.2014 in the case of THDC India Limited Vs Chanda Biswas, where in it has been held that

*"11. This Court is also of the opinion that the finding of public interest warranting disclosure of the said information under Sections 8(1)(e) and 8(1)(j) of the RTI Act and the procedure contemplated under Sections 11(1) and 19(4) of the RTI Act are mandatory in nature and cannot be waived. In the present case, the CIC has directed the petitioner to provide DPC minutes to the respondent without considering the defence of the petitioner under Section 8(1)(e) of the RTI Act and without following the procedure specified under Sections 11(1) and 19(4) of the RTI Act. It is pertinent to mention that Sections 11(1) and 19(4) of the RTI Act incorporate the principles of natural justice. Further, in the present case no finding has been given by CIC as to whether public interest warranted such a disclosure."*

*12. I find no reason to differ from the aforesaid decision. I am also unable to agree with the contention that the matter be remanded back to the CIC for considering it afresh as the conclusion in the case of R.K. Raturi (Supra) is definite; DPC minutes cannot be disclosed except in public interest and that too after following the procedure specified under Sections 11(1) and 19(4) of the Act.*

*13. In my view, the reasoning of the CIC that the respondent being an officer of the petitioner cannot be considered as a third party, is not sustainable. The information relating to ACRs and grading of an employee are personal to him and in this respect other employees are, definitely, not entitled to share that information".*

7. As regards to the Appellant's contention that the question of intrusion of privacy of any other individual does not arise in this case whereas such an intrusion by the department occurs by denial of information as the interest of the applicant was the subject matter of DPC, I would like to reproduce the definition of "Third Party" as defined in Section 2 (n) of the RTI Act here.

*"third party" means a person other than the citizen making a request for information and includes a public authority.*

8. As per the above definition, the Chairman/Members of the DPC and also all the officers whose name find a place in the above said Review DPC fall under the category of the third party and the disclosure of the minutes of the Review DPC has to be made invariably with the consent of the members/officers and in such a situation Section 11(1) and Section 19(4) of the RTI Act, 2005 comes in to play provided the public interest in disclosure outweighs the exemption clause prescribed under Section 8(1) of the RTI Act, 2005. In this instant case, the Appellant has not demonstrated any such public interest warranting disclosure of Minutes of DPC. In this context, I would like to reply on the para



12 and Para 13 of above mentioned judgement in the case of THDC India Limited Vs Chanda Biswas, where in it has been held that

*12. I find no reason to differ from the aforesaid decision. I am also unable to agree with the contention that the matter be remanded back to the CIC for considering it afresh as the conclusion in the case of R.K. Raturi (Supra) is definite; DPC minutes cannot be disclosed except in public interest and that too after following the procedure specified under Sections 11(1) and 19 (4) of the Act.*

*13. In my view, the reasoning of the CIC that the respondent being an officer of the petitioner cannot be considered as a third party, is not sustainable. The information relating to ACRs and grading of an employee are personal to him and in this respect other employees are, definitely, not entitled to share that information”.*

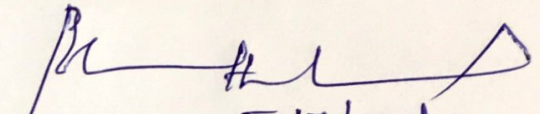
9. On perusal of the CIC decisions furnished by the Appellant, it is seen that in the case of S C Sharma Vs UPSC, (CIC/WB/A/2006/01035 dated 30.12.2006), the CIC did not direct to provide the DPC Minutes fully as stated by the Appellant. It had held that “as ACRs are themselves, according to us barred from disclosure, we hold that by inference the DPC proceedings should be similarly barred. However, in all such cases the CPIO and appellate authorities should apply the doctrine of severability, and should provide him the information which can be provided under subsection (2) of Section 10 of the Right to Information Act 2005.” As regards to the judgement in the case of Rakesh Kr Singh Vs Lok Sabha Secretariat quoted by the Appellant, it is informed that that issue pertains to disclosure of answer sheets of examinations conducted by CBSE, Lok Sabha Secretariat etc. Even in this case it has been held that if the CPIO decides to disclose copies of evaluated answer sheets of other persons, the procedure laid down under Section 11 of the RTI Act, 2005 have to be followed. In third case quoted by the Appellant i.e. Nand Lal Meena Vs Chief Commissioner of Income Tax in Appeal No CIC/CCITJ/A/2017/608695-BJ dated 22.04.2019, it was held that the Respondent Public Authority has to suo moto disclose all the details relating to minutes of DPC, the names under consideration and those approved in respect of Departmental Promotion Committee meetings held for Income Tax Officers, Income Tax Inspectors, Senior Tax Assistant, Administrative Officers, Stenographers Gr.- I, on their website in compliance with Section 4 (1) (b) of the RTI Act, 2005 for the benefit of all concerned redacting personal details of the concerned officials which is being done by this office as all promotion orders giving the names of officers promoted are posted in the official website in compliance with Section 4 (1) (b) of the RTI Act, 2005

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



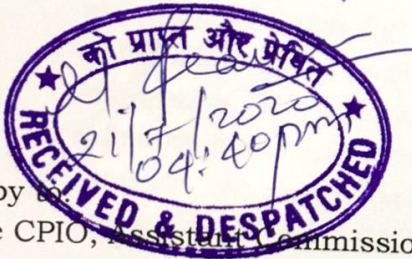
**ORDER**

(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.

  
-17/07/20  
**(B. SENTHILVELAVAN)**  
**ADDITIONAL COMMISSIONER**  
**FIRST APPELLATE AUTHORITY**

Shri Thangavelu  
15/22 AB, 4<sup>th</sup> Street,  
SM Palayam,  
GN Mills Post,  
Coimbatore - 641 029.

**[By Speedpost with A/D]**



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