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<b>OFFICE OF THE PRINCIPAL CHIEF COMMISSIONER OF CGST AND CENTRAL EXCISE, TAMILNADU AND PUDUCHERRY ZONE</b> 26/1, महात्मागांधीमार्ग, नुंगम्बाक्कम, चेन्नै-600 034 26/1, Mahatma Gandhi Road, Nungambakkam, Chennai 600 034		

**ORDER-IN-APPEAL NO. 11/2021-CCA-RTI(Appeals)**  
**(Order passed by T G Venkatesh, 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 K. K. Sivakumar**  
77/17, Arthanari Street,  
Shevapet, Salem – 636 002.

..... 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

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Sub : Right to Information Act, 2005 – Shri K. K. Sivakumar – Appeal against the information furnished by the CPIO, Assistant Commissioner, vide C.No.II/39/101/2021-CCA.RTI dated 31.08.2021 – Passing of Order by First Appellate Authority under RTI Act, 2005 – Reg.

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o/c

Shri K. K. Sivakumar, 77/17, Arthanari Street, Shevabet, Salem – 636 002 (hereinafter referred to as “the appellant”) filed an appeal dated 02.09.2021 under the Right to Information Act, 2005 (hereinafter referred to as “the RTI Act”) received in this office on 06.09.2021 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/39/101/2021-CCA.RTI dated 31.08.2021.

2.1 The brief facts of the issue are that the appellant in his RTI application dated 07.08.2021 received in this office on 18.08.2021 had sought the following information:

- i. What is the percentage of penalty levied on raw and pure silver when traded without bills or invoice?
  - ii. Is evasion of tax under GST a criminal offence?
  - iii. Provide information on differences in terms of percentage when penalty is levied on silver goods during transit and undocumented silver is found during search operations in premises of business.
  - iv. What is the maximum penalty levied for evasion of GST in terms of percentage.
- 2.2 The CPIO vide letter C.No. II/39/101/2021-CCA.RTI dated 31.08.2021 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 02.09.2021 before the First Appellate Authority under Section 19(1) of the RTI Act, 2005.
- 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. The appellant vide RTI application dated 07.08.2021 had sought clarification regarding applicability of penal provision under GST. The CPIO vide letter C.No. II/39/101/2021-CCA.RTI dated 31.08.2021 furnished reply stating that the

information sought for is in the nature of seeking clarification regarding applicability of penal provision under GST which requires interpretation of Notifications/Statutory provisions which is beyond the scope of the RTI Act, 2005. Further, CPIO had stated that the notifications/Act prescribing the Rates/Law are available in the public domain <https://www.cbic.gov.in/>.

6. As regards to the Appellant's contention that the response of the CPIO is not satisfactory and that the information sought for is not available in the public domain, it is once again informed that the notifications/Act prescribing the Rates/Law are available in the public domain <https://www.cbic.gov.in/>.

According to Section 2(f) of the Act, '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 Public Information Authority is required to supply such material to the citizen who seeks it. It is pertinent to point out here that only the particulars available on records in respect of an issue falls within the ambit of "information" which can be provided by the CPIO and there is no obligation to give opinion on a matter. The same issue has been elaborated by the Supreme Court in the matter of Central Board of Secondary Education & Anr Vs Aditya Bandopadhyay & Ors (in Civil Appeal No.6454 of 2011) wherein the Apex Court has clarified 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.

In this regard, it is also pertinent to mention here that the Hon'ble CIC in their order dated 02.05.2014 in case no. CIC/BS/A/2013/000794/5035 by relying upon the decision dated 01.06.2012 of the Hon'ble High Court of Delhi in W.P.(C) 11271/2009 (Registrar of Companies & Or vs. Dharmendra Kumar Garg & Ors) have observed that once an information is put on internet or is available in public domain, it cannot be said to be 'held' or under the control of the public authority and thus would cease to be an information accessible under the RTI Act. Hence, there is no justification in the grievance of the appellant.

Further, it is informed that RTI is not the appropriate forum for seeking clarification. For any clarification regarding applicability of penal provision under GST, the appropriate jurisdictional authority may be approached.

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

**ORDER**

(i) I hold that the reply 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.

(T G VENKATESH)  
ADDITIONAL COMMISSIONER  
FIRST APPELLATE AUTHORITY

Date: 14-09-2021 18:48:35

Reason: Approved

Copy to:

**Shri K. K. Sivakumar**  
77/17, Arthanari Street,  
Shevapet, Salem – 636 002.

Copy to:

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



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