
	<p>केंद्रीय शुल्क के प्रधान आयुक्त का कार्यालय OFFICE OF THE PRINCIPAL COMMISSIONER OF CENTRAL TAX हैदराबाद जीएसटी आयुक्तालय HYDERABAD GST COMMISSIONERATE जीएसटी भवन, एल बी स्टेडियम रोड, बशीर बाग, हैदराबाद-500 004 GST BHAVAN, L B STADIUMROAD, BASHEERBAGH, HYDERABAD-500004 Phone No.040-23241117 / 23240725 Fax No. 040-23289204 e-mail:cgst.hydcmmr@gov.in</p>	
		Date: 03.01.2020

C.No.IV/16/24/2019-RTI (Appeal)

ORDER - IN - APPEAL NO.23/2019-RTI Dated: 03.01.2020

(Passed by Shri. V.Vasudha Prasada Rao, I.R.S. First Appellate Authority/ Additional Commissioner, Hyderabad GST Commissionerate, Hyderabad)

PREAMBLE

Under Section 19 (3) of the Right to Information Act, 2005, the applicant, if aggrieved by this order, can prefer an appeal to the Central Information Commission, CIC Bhawan, Baba Gangnath Marg, Munirka, New Delhi - 110 067 within 90 days of receipt of this order.

Name of the Appellant: Shri. Byragoni Sreenivas Goud
Name of the CPIO : Sri.Varma K. Raghu, Manojit Majumder & N.Madhusudana Reddy
Order against which Appeal filed : 33/2019(GST) dt 07.11.2019, 18/6(3)/2019-RTI dt 07.11.2019 & 166/2019 dt 20.11.2019

Sub: RTI Act, 2005 - RTI Appeal dated-25.11.2019 filed by Shri. Byragoni Sreenivas Goud - Regarding.

Initially, RTI application dated 18.10.2019 was filed with Central Public Information Officer, Hyderabad GST Commissionerate, Hyderabad, seeking the following information:-

- Please furnish the total list of GST cases registered by Hyderabad GST Commissionerate including Head Quarters Anti Evasion section and Divisional Preventive/Anti Evasion Sections, during the period from 01.07.2017 to 30.09.2019 along with amount of tax involved in each case. Also furnish the list of cases registered against taxpayers involved in issuance of fake GST Invoices or passing on irregular Input Tax Credit (ITC) or Circular Trading, etc., Also furnish the status of each case.
- Names and designation of all the Public Authorities/Officers who investigated the above cases at Hyderabad GST Commissionerate including Head Quarters Anti Evasion Section and Divisional Preventive/Anti Evasion Sections pertaining to cases mentioned in the point no 1.
- Detailed information along with the list of the show cause notices issued to all the tax payers mentioned in the point no 1.
- Detailed information along with the list of the cases closed and pending investigation mentioned in the point no 1
- Detailed information on Estimated and realised amounts of GST involved in respect of cases mentioned in point no1.
- Detailed information on the number of persons arrested (full details of such cases with the names of the persons arrested, GST Amount involved, names

- and address of the taxpayers involved, etc.) under the provisions of CGST Act, 2017 during the period from 01.07.2017 to 30.09.2019.
- vii. Detailed information on number of Arrest Authorisation issued for arrest of accused persons (full details of such cases with the names of the persons arrested, GST Amount involved, names and address of the taxpayers involved, etc.) under the provisions of CGST Act, 2017 during the period from 01.07.2017 to 30.09.2019.
 - viii. Detailed information on number of pending arrest authorisations without executing the same and reasons for pendency.
 - ix. Any other relevant documents pertaining to the above said matter.
 - x. File noting on the movement of this RTI application.

2. The RTI application dated 18.10.2019 was received in this office on 22.10.2019 and the same was forwarded to Adjudication Section and Anti-Evasion Section for providing the information. Also transferred the application under section 6(3) of RTI Act, 2005, to the CPIO's & Dy./Asst. Commissioner of the respective Divisions of Hyderabad GST Commissionerate so that they can provide the information available, if any, directly to the applicant.

3. The CPIO & Assistant Commissioner, Mehdipatnam Division vide order No.33/2019(GST) dated 07.11.2019 has provided the following information:

- 1) 1 case was registered on tax collected but not paid for an amount of Rs.1.95 Crores.
- 2) Details of the officers cannot be provided in terms of section 8(1)(h) of the RTI Act, 2005 it may impede the process of investigation or apprehension or prosecution of offenders.
- 3) No SCN issued.
- 4) Investigation closed since tax recovered for the relevant period. No cases pending.
- 5) Amount estimated is Rs.1.95 Crores and full amount recovered.
- 6) Nil.
- 7) Nil.
- 8) Nil.
- 9) Not Applicable.
- 10) Not Applicable.

4. The CPIO & Assistant Commissioner, Begumbazar Division vide order No.18/6(3)/2019-RTI dated 07.11.2019 has provided the following information:

- 1) (a) One GST case was registered by Begumbazar GST Division and the amount of tax involved is Rs.80,33,736/-. The GST case so registered was confirmed.
(b) No such case of fake GST invoices issuance or passing on irregular ITC or Circular Trading etc., were registered by this Division.
- 2) Smt. K. Seetha, Superintendent of Central Tax.
- 3) SCN ref. C.No.V/15/01/33/2019-Adjn dt.20.06.2019.
- 4) NIL.
- 5) Yet to be realised. Hence the information is NIL.
- 6) NIL.
- 7) NIL.
- 8) NIL.
- 9) NIL.
- 10) Photo copy of file noting on movement of RTI application is enclosed.

5. The CPIO & Dy. Commissioner, Hqrs. Hyderabad GST Commissionerate vide order No.166/2019 dated 20.11.2019 has provided the following information:

Point No. 1: On the advent of Hyderabad GST Commissionerate, the Anti-Evasion Section registered 45 cases during the period from 01.07.2017 to 30.09.2019. Estimated amount of GST involved is Rs. 335.26 Crores. Out of the 45 cases, 22 cases are registered against taxpayers involved in issuance of fake GST invoices or passing on irregular Input Tax Credit (ITC) or circular trading etc. Details cannot be provided in terms of Section 8(1)(d) of the RTI Act, 2005 as it would harm the interests and the competitive position of the assesseees.

Point No. 2: Details of officers cannot be provided in terms of Section 8(1)(h) of the RTI Act, 2005 as it may impede the process of investigation or prosecution of offenders.

Point No. 3: No SCN is issued as on 13.11.2019 in any of the cases mentioned in point No. 1.

Point No. 4: Out of 45 cases registered by Anti-Evasion Section, Hyderabad GST Commissionerate, 06 cases are closed on payment of tax along with applicable interest and penalty and 39 cases are pending as on 13.11.2019. Details cannot be provided in terms of Section 8(1)(d) of the RTI Act, 2005 as it would harm the interests and competitive position of the assesseees and it may impede the process of investigation.

Point No. 5: Estimated amount of GST involved is Rs.335.26 Crores. Out of which Rs.94.29 Crores are realized.

Point No. 6: Total 9 persons are arrested so far under the provisions of the CGST Act, 2017 during the period from 01.07.2017 to 30.09.2019. Details cannot be provided in terms of Section 8(1)(d) of the RTI Act, 2005 as it would harm the competitive position of the assesseees.

Point No. 7: Total 12 arrest authorizations issued for arrest of accused persons under the provisions of the CGST Act, 2017 during the period from 01.07.2017 to 30.09.2019. Details cannot be provided in terms of Section 8(1)(d) of the RTI Act, 2005 as it would harm the investigation process and competitive position of the assesseees.

Point No. 8: 03 arrest authorizations are pending without executing the same as the persons were not readily available. Details cannot be provided in terms of Section 8(1)(d) of the RTI Act, 2005 as it would harm the investigation process and competitive position of the assesseees.

Point No. 9: Not applicable.

Point No. 10: Copy of file notings on the movement of RTI application dated 18.10.19 is enclosed herewith.

6 The appellant has filed an Appeal dated 25.11.2019 received in this office on 26.11.2019 against the above three CPIO orders dated 07.11.2019, 07.11.2019 & 20.11.2019 on the following grounds:

With regard to order No.33/2019(GST) dt 07.11.2019 & No.18/6(3)/2019-RTI dt 07.11.2019 (passed CPIOs of Mehdipatnam & Begum Bazar Division)

i. Learned CPIO mentioned all sought information was NIL.

With regard to order No.166/2019_RTI dt 20.11.2019 (passed by CPIO of Hqrs. Hyd GST Commissionerate)

ii. CPIO gave Order of partial information and by hiding all public interest while quoting Section 8(1)(d) and 8(1)(h) of RTI Act.

iii. Even exemptions under section 8(1) are not absolute and are subject to larger public interest as mentioned in section 8(2) which reads, "Notwithstanding any of the exemptions permissible in accordance with sub section(1), a public authority may allow access to information if public interest in disclosure outweighs the harm to protected interest."

iv. Relied and cited the decision CIC/OK/A/2008/00860/SG/0809.

v. He is available for personal hearing if informed in advance.

7. FINDINGS:

A Personal Hearing was granted on 30.12.19, the appellant Shri.Byragoni Sreenivas Goud has attended the hearing and reiterated the submissions made in his appeal dt 25.11.2019 and requested to direct the CPIO to provide the information accordingly.

I have gone through all the three orders dt 07.11.2019, 07.11.2019 and 20.11.2019 passed by the CPIOs of Mehdiapatnam, Begumbazar Divisions and Hqrs. Hyderabad GST Commissionerate, Appeal dt 25.11.2019, the comments offered by the CPIO of Mehdiapatnam Division dt 10.12.2019, Begumbazar Division dt 17.12.2019 and Anti-Evasion Section dt 09.12.2019 and the submissions made by the appellant at the time of personal hearing.

In this regard, it is pertinent to mention here that the appellant vide letter dated 18.11.2019 has already filed separate appeal against the order dated 07.11.19 passed by CPIO & Asst. Commissioner, Mehdiapatnam Division and the same was disposed by Appeal Order No.22/2019-RTI dated 20.12.2019. Again on 25.11.2019, the appellant has filed another appeal clubbing the Order of Mehdiapatnam Division alongwith other two CPIO orders dt 07.11.2019 and 20.11.2019 of Begum Bazar Division and Hqrs. Hyderabad GST Commissionerate respectively. Therefore, the order pertaining to Mehdiapatnam Division is not being dealt in this order as the same was already disposed of as discussed above. Therefore, this order is only confined to two orders of CPIOs dt 07.11.2019 and dt 20.11.2019 of Begum Bazar Division and Hqrs. Hyderabad GST Commissionerate respectively.

I have perused the CPIO order dt 7.11.2019 of Begum Bazar Division and it is observed that the CPIO has reported that one GST case was registered involving an amount of Rs.80,33,736/- and SCN vide C.No.V/15/01/33/2019-Adjn dt 20.06.2019 was issued, provided the name of person who has investigated the case. Further, reported that no case of fake GST invoices or passing on irregular Input Tax Credit (ITC) or circular trading etc., and other information was given as Nil. I have also noticed that the CPIO of Begum Bazar Division in his comments dt 17.12.2019 has submitted that they have furnished Nil reply to the points No.4 and 6 to 9 of the application. Thus, the appellant's contention in his appeal that the CPIO has given Nil is incorrect as the information was provided in the CPIO order dt 07.11.2019.

Similarly, I have also perused the CPIO order dt 20.11.2019 of Hqrs. and it is observed that the Anti-Evasion section of Hqrs. has reported that 45 cases were registered during 01.07.2017 to 30.09.2019, out of 45 cases, 22 cases were registered against taxpayers involved in issuance of fake GST invoices or passing on irregular Input Tax Credit (ITC) or circular trading etc. Out of the 45 cases, 06 cases are closed on payment of tax along with applicable interest and penalty, 39 cases are pending as on 13.11.2019. Out of 12 arrest authorizations issued for arrest of accused persons under the provisions of the CGST Act, 09 persons were arrested and 03 arrest authorizations were pending as the persons are not available. The Anti-Evasion Section in their comments dt 09.12.2019 has submitted that the information is of sensitive nature called for by the third party (the appellant) and there is no larger public interest involved. I find that the appellant did not produce any documentary evidence at the time of personal hearing in support of his contention to prove that the information provided by the CPIO is partial and has hidden the information. Thereby, the contention of the appellant does not appear to be tenable.

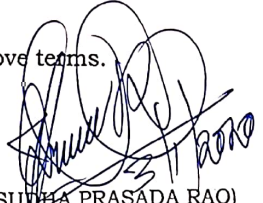
However, in the light of the appellant's submission in his appeal and personal hearing, it is felt that the CPIOs should re-ascertain the information and provide the same to the appellant keeping in view the public interest as per the provisions of the RTI Act,2005.

8. Accordingly, I pass the following order.

ORDER

I direct the CPIOs of Begum Bazar Division and Hqrs. to re-ascertain the information and provide the information as deemed fit within 30 days from the date of receipt of this order.

The appeal is disposed off accordingly in the above terms.


(V.VASUDHA PRASADA RAO)
APPELLATE AUTHORITY &
ADDITIONAL COMMISSIONER (T)

To,
Shri Byragoni Sreenivas Goud, 15-16, I Janapriya Bungalows, Macha Bolarum
Secunderabad-500010 (Telangana)

Copy to:

The Deputy Commissioner & Central Public Information Officer, Hyderabad GST
Commissionerate, Hyderabad for information and necessary action as directed.

The Assistant Commissioner & Central Public Information Officer, Begum Bazar
Division, Hyderabad GST Commissionerate, Hyderabad for information and necessary
action as directed.

The Deputy Commissioner (Computer Section) for uploading on Hyderabad Zonal
Website.