



मुख्य आयुक्त का कार्यालय  
Office of the Chief Commissioner  
सीमा शुल्क एवं केन्द्रीय कर, विशाखापट्टणम क्षेत्र  
Customs & Central Tax, Visakhapatnam Zone  
प्रथम तल, जीएसटी भवन, पत्तन क्षेत्र, विशाखापट्टणम - 530035  
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F.No. GCCO/RTI/FAAA/1/2025-REV-O/o CC-CGST-ZONE-VISAKHAPATNAM

Date: 19.02.2025

**अपील में आदेश संख्या. 03/2024-25/ ORDER-IN-APPEAL NO. 03/2024-25**

(ORDER PASSED BY SHRI M. SREEKANTH, FIRST APPELLATE AUTHORITY/  
ADDITIONAL COMMISSIONER OF CENTRAL TAX & CUSTOMS,  
CCO, VISAKHAPATNAM ZONE, VISAKHAPATNAM)

**प्रस्तावना / PREAMBLE**

1. यह आदेश आर.टी.आई अधिनियम 2005 की धारा 19 के अन्तर्गत जारी किया गया है। This Order-in-Appeal is issued under Section 19 of the Right to Information Act, 2005.
2. यदि आप इस आदेश से संतुष्ट न हो तो आप केन्द्रीय सूचना आयोग, सीआईसी भवन, बाबा गंगनाथ मार्ग, मुनिरका, नई दिल्ली-110067 के सम्मुख आर.टी.आई. अधिनियम, 2005 की धारा 19 की उप-धारा (3) के अन्तर्गत एक अपील दायर कर सकते हैं। An appeal against the Order can be preferred to the Central Information Commission, CIC Bhawan, Baba Gangnath Marg, Munirka, New Delhi-110067 under Sub-section (3) of Section 19 of the Right to Information Act, 2005.
3. इस आदेश की प्राप्ति की तारीख से 90 दिनों के भीतर अपील दायर किया जाना चाहिए। An Appeal against this order must be filed within 90 days from the date of receipt of this order.
4. कृपया अपील की प्रक्रिया से सम्बन्धित अधिक जानकारी/स्पष्टता के लिए: <http://cic.gov.in> को देखें। For further information/clarity regarding procedure of appeals, please visit, <http://cic.gov.in>.

**विषय/Sub:** Right to Information Act, 2005- Appeal filed by Shri Somesh Tiwari – Decision under Section 19(1) of the RTI Act, 2005 – Appeal Order passed – Reg.

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**Brief facts of the Appeal:**

This Appeal dated 22.01.2025 filed by Shri Somesh Tiwari (hereinafter referred to as the “Appellant” or “Applicant” or “Applicant-Commissioner” or Appellant-Commissioner for brevity), Door No.3-30-15, Ring Road, Near Subham Convention, Guntur, Andhra Pradesh - 522006 against the reply of CPIO i.e. Assistant Commissioner of Central Tax & Customs, O/o the Chief Commissioner of Central Tax and Customs, Visakhapatnam Zone, Visakhapatnam vide letter GCCO/RTI/APP/471/2024-REV-O/o CC-CGST-ZONE-VISAKHAPATNAM dated 07.01.2025 in reply to the RTI application Registration No. CEVZ/R/E/24/00077 dated 11.12.2024.

**Information sought for:**

2. The applicant enclosed the copies of letters dated 16.10.2023, 22.02.2024, 10.04.2024 and 01.08.2024 addressed to the Chief Commissioner of Central Tax & Customs, Visakhapatnam Zone, Visakhapatnam to his application dated 11.12.2024 and sought for the following:

*“Please provide copy of the note sheet in which the letters attached with this application were processed”.*

**Reply of the CPIO:**

3. The CPIO of the Office of the Chief Commissioner of Central Tax & Customs, Visakhapatnam Zone, Visakhapatnam vide letter dated 07.01.2025 replied that;

*“It is informed that the copies of note sheets sought by you cannot be provided as some confidential matters related to the officer have been discussed therein. Action in the matter is underway and any disclosure of note sheets at this stage would have the effect of impeding proposed action.*

*In view of the above, the copies of the note sheets sought for cannot be provided in terms of Section 8 (1) (h) of the RTI Act, 2005.”*

**Grounds of Appeal:**

4. The Appellant submitted in his appeal letter dated 22.01.2025, inter-alia, that (1) the CPIO did not provide the copies of note-sheets sought for in relation to the letters attached by the applicant; (2) the CPIO did not explain that in what manner the disclosure of such information would impede the proposed action and therefore the order of CPIO is liable to be set aside; (3) the order of CPIO is bad in the eye of law in view of the decision of the Hon'ble High Court of Delhi in the case of B.S. Mathur Vs. Public Information Officer of Delhi High Court W.P(C) 295/2011; and (4) based on instructions of DOPT and his leave applied etc., the information sought for be provided to him at the earliest.

**Personal Hearing:**

5. Personal hearing is fixed on 12.02.2025 at 12 Noon, and at the request of the appellant it has been conducted at 3PM on the same day through virtual mode, by adhering to the principles of natural justice.

**Submissions of the Appellant:**

6. During the hearing held on-line, the appellant reiterated the grounds of the appeal and added that the decision of CPIO denying copies of the note sheets of the file that dealt his leave application in the Chief Commissioner's office is bad in law as per the decision of the Hon'ble High Court of Delhi in the case of B.S. Mathur Vs. Public Information Officer of Delhi High Court W.P(C) 295/2011; the note-sheets are required for answering the memo issued to him.

**Discussion & Findings:**

7. I have carefully gone through the RTI application, CPIO's reply, Grounds of Appeal and oral submissions made during the personal hearing. The issue for decision before me is whether the CPIO is correct in denying the information sought for i.e. note sheets of the file wherein the appellant's leave is processed.

8. At the outset I find that the appellant is a Government Officer working as Commissioner of Central Tax (Appeals) under Visakhapatnam Zone and has sought information in his own case. The officer went on leave and since he did not join after the leave sanctioned, the Department issued letter dated 22.09.2023, requesting him to return to duty immediately. Whereas, the officer has not joined as directed. After joining on 16.10.2023 he submitted HPL Application along with joining report on 16.10.2023 for the period of absence i.e., for 33 days Half Pay Leave from 11.09.2023 to 13.10.2023 with holiday permissions prefix on 09.09.2023 & 10.09.2023 and suffix on 14.10.2023 & 15.10.2023 along with CGHS prescription and Assumption of Charge. Since the officer absent from duty without sanction of leave Department considered it un-authorized absence and initiated the process for taking action. In the meanwhile the officer vide letters dated 22.02.2024, 10.04.2024 & 01.08.2024 requested to accept the request for HPL application dated 16.10.2023.

9. In this backdrop, the appellant-Commissioner vide his RTI application dated 22.01.2025 sought for the note-sheets of the file wherein his leave application dated 16.10.2023 and follow-up letters dated 22.02.2024, 10.04.2024 and 01.08.2024 are dealt with.

10. It is clear that the issue is about request for sanction of leave to the appellant which involves action for absence from duty. There is no public interest involved in this.

11. I have perused the records and found that action is underway to initiate Disciplinary Action against the individual for unauthorized absence among other charges. The case is in the preliminary stages where the draft charge memo and relied upon documents have been forwarded to Board as the appellant is a Group-A officer. The appropriate section of Central Board of Indirect Taxes and Customs (CBIC) would examine the same and come to a conclusion on the issuance of the Charge Memo to the officer. It is apprehended that the officer being a senior officer of the rank of Commissioner (Jt. Secretary level) would bring undue pressure to scuttle the proceedings and may also affect the officers involved in the drafting of the various notes. It is in this context that the CPIO denied providing of the information in terms of Section 8 (1) (h) of the RTI Act, 2005 on the grounds of confidentiality and impediment of the proposed action on the leave application.

12. I have gone through the decision of Hon'ble High Court in the case of B.S.Mathur Vs. PIO of Delhi relied by the appellant. In the said the application filed by the petitioner before the inquiry was completed was dismissed by the Appellate Authority and the Hon'ble Court dealt the application filed after the completion of the enquiry. In this case the process of proposed action for absence or sanction of leave is not yet over. Since facts of the case relied by the appellant are different, it appears that it is not applicable to the present appeal.

13. In the case under consideration, I find that the inquiry is in its preliminary stages and is now pending with the Central Board of Indirect Taxes and Customs (CBIC). It is a matter of fact that once the charge memo, if any, is issued to the officer, the entire set of documents relied upon will be made available. While the Note sheets do not form part of the RUDs and they contain confidential noting of officers on the case drawn up in the process of the files. Any action by the appellant at this stage would interfere with the proceedings in progress and may affect the outcome of the inquiry at this stage.

14. I find that the CPIO is justified in not providing the information under Section 8(1)(h) of the RTI Act and I also find that the information is hit by the exemption under Section 8(1)(j) of the Act also inasmuch as disclosure of the Note sheets would identify the individuals behind the notes and open them up to unwarranted invasion of their privacy and could be a threat to their careers due to the high position of the appellant.

Accordingly, I pass the following order.

ORDER

The appeal dated 22.01.2025 filed by the appellant is not allowed.

*M. Sreekanth*  
19.02.2025

(एम. श्रीकान्त/M. SREEKANTH)

FIRST APPELLATE AUTHORITY

अपर आयुक्त/ ADDITIONAL COMMISSIONER

To,

Shri Somesh Tiwari, Address: Door No.3-30-15, Ring Road, Near Subham Convention, Guntur, PIN Code: 522006, State - Andhra Pradesh (Through Email to: somesh\_tiwari72@yahoo.com).

Copy Submitted to: The Chief Commissioner of Central Tax & Customs, Visakhapatnam Zone, Visakhapatnam - 530035.

Copy to: 1. The CPIO/Assistant Commissioner of Central Tax, O/o the Chief Commissioner of Central Tax & Customs, Visakhapatnam Zone, Visakhapatnam for necessary action.

2. The Superintendent, Media Cell (CCO-VZ) for uploading into Department's Website.