

CENTRAL INFORMATION COMMISSION

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F. No. CIC/AT/A/2009/000807	F. No. CIC/AT/C/2009/000736
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Dated, the 21st January, 2010

Appellant : Shri Ajay Kumar Goel

Respondents : Customs & Central Excise, Noida

Matter came up for hearing on 07.01.2010 pursuant to Commission's notice dated 08.12.2009. Appellant was present in person. Respondents were represented by Smt. Anita Sharma, Assistant Commissioner.

2. Appellant, during the hearing, limited the scope of his requirement in the present petition to the queries at Sl. Nos. 2,3,5,6,7,& 9 of his RTI-application dated 23.05.2009. These are discussed below:

Sl. No.2:

"List of all such refund orders pending to be issued alongwith reasons for non issuance of refund orders yet. Showing name of the assessee, Service Tax Registration No., amount of refund claimed, date of filing the refund application."

3. Respondents stated that as per the procedure, which the department had been following for sanctioning refund of unutilized credit, all refund claims were firstly scrutinized and if these were found to be proper and legally correct, refund orders were issued. There was no withholding any refund order once it was prepared. As such, no refund order was ever pending for issuance. They, however, provided to appellant the details regarding the pendencies in refund claims. As regards name of assessee, service tax registration No. and amounts in the pending claims, they contended, attracted the exemption under Section 8(1)(g) of the RTI-Act as, according to them, the disclosure of these details would lead to the disclosure of amount, which a claimant would receive at a particular time. They apprehended that if such information reached the hand of any 'dubious elements' it might harm the claimant. They added that the disclosure of the refund claim of an individual would give concrete evidence about the amount to be paid to the claimant which would expose him in danger.

4. Appellant questioned the system followed by the department in dealing with the refund claims. He alleged that *"there is no system of issuing or processing the refund orders first cum first serve basis, rather whosoever agrees to unreasonable demands of the officials, is granted the refund and whosoever is not ready to accept their corrupt practices, made to sit for months and months for refund orders."* He, therefore, requested that the information should be made public as it involved larger public interest.

5. After hearing the arguments of both sides, it is noticed that all what the appellant needed through this item of query was that the functioning of the public authority in settling the refund claims be routinized. I find that though the public authority has been discharging its functions under the given law/rules, there was still room for systemic improvement. The respondents' claim that disclosure of the name etc. of the claimants would endanger their life or physical safety is not persuasive. It is my view that if this information is made public, no harm is likely to be caused to anybody, rather it would help the claimants get to know the status of their respective claims as well the status of the other similar claims. This will enable them to point out deficiency, if any, which will eventually enable the public authority to discharge its functions more efficiently.

6. In view of the above, it is directed that the respondents shall place this information on their website within 6 weeks of the receipt of this order.

Sl. No. 3:

"Whether there is any delay in processing and sending the refund orders to assesses? If yes, who is responsible for the delay and what action you are taking/have taken/ propose to take against the official/s responsible for the delay? If no, how much time it should take as per law, normally to issue a refund order in such cases?"

7. This query is interrogatory in nature and thus does not qualify to be an information under Section 2(f) of the RTI-Act. Nevertheless, the name of the officers handling the refund claims may be provided to the appellant. Time-2 Weeks from the date of the receipt of this order.

Sl. No. 5:

"By which date now the assesses' will get their refund orders?"

8. This query demands the future course of action of the public authority which cannot be directed to be answered.

Sl. No.6:

"List of documents required to be enclosed with the refund application in form 'A'."

9. CPIO informed appellant that *"List of documents as required to establish their claims in accordance of the respective Notification."*

10. Appellant called this reply 'evasive' as it simply mentioned a notification instead of the list of documents. He stated that the officials of the public authority often demanded documents which were not even required to be furnished by party as per rules. He, therefore, wanted the public authority to come out with a detailed list of all documents needed for settling a claim.

11. Respondents argued that there were various situations for filing refund claims and each situation was covered under a different set of rule. They submitted that the list of documents, processing method, time for sanctioning refund and action required to be taken in case of delay were mentioned in various notifications and circulars which were available to all concerned, hence these cannot be said to be under the control of the public authority under Section 2(j) of the RTI-Act.

12. I have no doubt that there is a prescribed list of documents required to be submitted along with the application for refund claim, but the demand of additional documents by the official of the public authority has also not been completely denied by the respondents. It is, therefore, worthwhile for respondents to assess and determine the requirement of documents in each situation of refund claim and come out with detailed lists.

13. It is accordingly directed that the respondents shall examine each category of refund claim and prepare their exhaustive lists, which shall be placed on the website of the public authority. Time- 6 weeks of the receipt of this order. Appellant may, thereafter, get this information from the website of the public authority.

Sl. No. 7:

"Whether there is any system to ensure that the applications for refund are processed on first come first serve basis? If yes, please provide a list of pending refund processing cases showing clearly the no. of each assessee in the list along with date of filing the application by the assessee."

14. Decision taken in respect of Sl. No 2 above shall cover this item as well.

Sl. No.9:

“Can they refuse to accept the application on the ground that they feel that certain more documents are required to be enclosed, in place of issuing a deficiency memo at that time or late on?”

15. After hearing the submission of both parties, it is decided that the system in place and the circulars in this regard may be provided to the appellants. This may be done within 2 weeks from the date of the receipt of this order.

16. Appeal disposed of with the above direction.

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17. Appellant has also demanded that the penal action under Section 20(1) & (2) be initiated against the CPIO for giving incomplete and misleading information to him and, an amount of Rs. 500/- as compensation (Section 19(8)(b)) be awarded to him for the inconvenience and cost imposed on him due to delay/non supply of information.

18. From what has been discussed in the preceding paragraphs, I find no reason to initiate penal or compensation proceeding against the respondents.

19. Complaint is, therefore, directed to be closed.

20. Copy of this decision be sent to the parties.

(A.N. TIWARI)
INFORMATION COMMISSIONER