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|  | <p>आयुक्त का कार्यालय, केन्द्रीय माल एवं सेवा कर Office of the Commissioner, Central Goods & Services Tax “सिद्धि सदन”, प्लॉट सं. 67-76/बी-1 “SIDDHI SADAN”, Plot No.67-76/B-I नारायण उपाध्याय मार्ग, भावनगर-364001 Narayan UpadhyayMarg, Bhavnagar-364001.</p> |  |
| <p>फोन : (0278) 2523625 फैक्स : (0278) 2513086 ईमेल: cru-cgstbhavnagar@gov.in</p> | | |

DIN# 20220664WW0000418394

BEFORE THE FIRST APPELLATE AUTHORITY

(Under The Right To Information Act, 2005)

Shri Mayur J. Pathak: Appellant

V/s.

CPIO, CGST Bhavnagar : Respondent

ORDER NO. 02/APPEAL/RTI/2022 dtd 24.06.2022

Shri Mayur J Pathak , 74, Shreenath Residency , Opp Yash Complex , Opp Ratnakar tenaments, Gotri Road ,PIN-390021 Email mayoorpathak2002@gmail.com had filed an RTI application dated 09.05.2022 seeking the following information through his RTI application:

In reference with above referred subject matter I may be provided Information under Section 2F and Section 1 D of RTI Act 2005 on the followings points:

- Please provide me the copy of final decisions issued by High Courts and Supreme Court across India period of last 25 years pertain to interchange of informer by Excise and Customs Department officer and placed Bogus Informer of which attract punishment to the Excise and Customs officers under central excise and Customs Law 1944.
- Please provide me the copy of final decision issued by High Courts and Supreme Court across India of last 25 years pertains to punishment

to Excise and Customs officers due to not acted on information within prescribed time limit as per preventive manual.

- (c) Please provide me the copy of final decision issued by High Courts and Supreme Court across India of last 25 years pertains to punishment to Excise and Customs officers due to not acted on information within prescribed time limit as per preventive manual and because of nil action duty forgone for 2 years and more which made dent on revenue collection.

2. The CPIO, vide Order No. BVR/CPIO-HQ/RTI/06/2022-23 dated 27.05.2022 issued from F. No. GEXCOM/RTI/APP/679/2022-TECH-O/o COMMR-CGST- BHAVNAGAR passed following order:

“As per record available with this office it is to submit that no final decision had been issued by Hon’ble Supreme Court and High Court, in respect point 01 to 03 of the Applicant. Therefore, report may be treated as ‘NIL’.”

3. Being aggrieved by reply issued under F.No. GEXCOM/RTI/APP/679/2022-TECH-O/oCOMMR-CGST-BHAVNAGAR & Order No. BVR/CPIO-HQ/RTI/06/2022-23 dated 27.05.2022 of the Central Public Information Officer, CGST Bhavnagar, the appellant vide letter dated 16.03.2022 (received in this office on 09.05.2022) filed an appeal on the following grounds:-

1. Humbly it is to submit that as per the provisions of the RTI Act, 2005, CPIO is not provided information under the provisions of the RTI Act, 2005.
2. It is noticed from the reply that the officer failed to mentioned/ specify the Section of the RTI Act, under which he dealt the application. Apparently it is written that till there is no finality in Supreme Court or High court. But it is understood that if case(s) prosecute(s) in Supreme or High court are correspondingly on the bases of High court decisions or district court decisions Appellate authority requested to

provide details of those cases which are running in supreme court based on the decisions of district court or High court as requested in RTI Application.

3. Kindly refer to my RTI application, dated 16.03.2022, wherein I have requested the information where in the decision of cases in High court or Supreme Court which means provide information of High court decisions of which cases running in Supreme Court.
4. With all due respect this is to inform you that without high court decisions no case can appear for hearing in supreme court. I herewith requested you to take cognizance of attached judgements of HIGH COURT OF DELHI AT NEW DELHI Pronounced on: 05.02.2021 W.P. (C) 3701/2018 (copy attached for your ready reference) Moreover, the said information required is in the interest of Public. Hence to deny the information without quoting any section of RTI ACT, 2005, is totally illegal and is with bias attitude. It is therefore requested to kindly provide me the information denied and the information which is yet not provided.

4. PERSONAL HEARING.

Personal hearing was fixed on 16.06.2022 and 21.06.2022 at 04:00 pm, but Shri Mayur J. Pathak did not appear. Further, the appellant vide his E-mail dated 21.06.2022 informed that he does not want any physical/virtual hearing in the matter and opted to forgo the opportunity of personal hearing.

5. Discussion and findings

5.1 I have carefully gone through the appeal correspondence available on records.

5.2 I find that the appellant has requested to consider his appeal and provide the information requested in the application dated 09.05.2022.

5.3 I find that the CPIO observed in his order that information requested in RTI regarding the final decisions of Supreme Court and High Courts in

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last 25 years is not available with this office as per the record and no final decision had been issued by Hon'ble Supreme Court and High Court, in respect point 01 to 03 of the Applicant.

5.3.1 I find that the information requested in the RTI is already present in public domain as orders issued by the Hon'ble Supreme Court and High Courts are available on their respective websites and can be retrieved by any person. Hence it is clear that the information is available on public domain.

Also the CIC in Case No. CIC/MP/A/2015 /001439 to 41 held that:-

"...unless information is exclusively held and controlled by a public authority, that information cannot be said to be information accessible under the RTI Act. Inferentially it would mean that once a certain information is placed in the public domain accessible to the citizens either freely, or on payment of a predetermined price, that information 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."

6. In view of the foregoing paras, I pass the following order:

-: ORDER:

I uphold the Order No. BVR/CPIO-HQ/RTI/06/2022-23 dated 27.05.2022 passed by the CPIO and I reject the appeal dated 03.06.2022 filed by the appellant.

(LokeshDamor)
First Appellate Authority & Joint Commissioner,
CGST Commissionerate, Bhavnagar.

F.No. GEXCOM/RTI/FAAA/76/2022-TECH-O/O commr-CGST-BHAVNAGAR

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BY REGD. POST A.D.

To,
Shri Mayur J Pathak , 74, Shreenath Residency , Opp Yash Complex , Opp
Ratnakar tenaments, Gotri Road ,PIN-390021

Copy to :-

- i. The CPIO & Assistant Commissioner, CGST Commissionerate,
Bhavnagar.
- ii. Guard file.