आयकर केन्द्र
CENTRALIZED PROCESSING CENTER
INCOME TAX DEPARTMENT

OFFICE OF THE FIRST APPELLATE AUTHORITY
CENTRALIZED PROCESSING CENTER,
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SHRI NILANJAN DEY,
ADDL. DIRECTOR OF INCOME TAX (UNIT-4),
CENTRALIZED PROCESSING CENTER, BENGALURU

F.NO.RTI / APPEAL / 100 / 2022-23 **Dated: 15.09.2022**

1	Name and Address of the Appellant	SHRI VENKATESH NAYAK, 55A, 3rd Floor, Siddharth Chambers-1, Kalu Sarai, New Delhi – 110 016.
2	PAN & A.Y(s).	NA
3	Name and details of CPIO appealed against	Smt. Rajamathangi V., Income Tax Officer & CPIO, CPC, Bengaluru.
4	Details of original RTI Application	Online Application for Information under Section 6(1) of the RTI Act, 2005 dated 14.06.2022 received on transfer from O/o. ADGIT (Systems)-3, New Delhi in this office on 16.06.2022.
5	Information sought in the RTI Application	As detailed in the order below.
6	Details of information furnished by the CPIO, CPC, Bangalore	Information furnished by the CPIO vide F.No.RTI/June/37/2022-23 dated 11.07.2022.
7	Date of RTI Appeal	17.08.2022 (Online)
8	Date of receipt of RTI Appeal	17.08.2022 (Online)

ORDER UNDER SECTION 19(1) OF THE RTI ACT, 2005.

The Appellant filed an online application under the RTI Act, 2005 which was received in this office on 16.06.2022. The following request(s) have been made in the application.

Sl. No.	*Request(s)*
1.	*The year-wise total number of income tax assessees who have claimed in their income tax returns (ITRs) pertaining to the assessment years : 2019-20, 2020-21 and 2021-22, deduction under Section 80GGB, in respect of payments made.*
2.	*The year-wise total amount of payments for which income tax assessees have claimed deduction under Section 80GGB in their ITRs pertaining to the assessment year : 2019-20, 2020-21 and 2021-22.*

3.	*The year-wise total number of income tax assessees who have claimed in their ITRs pertaining to the assessment years: 2019-20, 2020-21 and 2021-22, deduction under Section 80GGC, in respect of payments made.*
4.	*The year-wise total amount of payments for which income tax assessees have claimed deduction under Section 80GGC in their ITRs pertaining to the assessment years: 2019-20, 2020-21 and 2021-22.*
5.	*The year-wise number of claims of income tax assessees for deduction under Section 80GGB, in respect of payments made, which have been disallowed by the appropriate authorities while assessing ITRs pertaining to the assessment years : 2019-20, 2020-21 and 2021-22, as on date and*
6.	*The year-wise number of claims of income tax assessees for deduction under Section 80GGC, in respect of payments made, which have been disallowed by the appropriate authorities while assessing ITRs pertaining to the assessment years: 2019-20, 2020-21 and 2021-22 as on date.*

2. It is seen that the CPIO replied to the RTI application vide letter dated 11.07.2022, in F.No.RTI/June/37/2022-23. Relevant portion of the letter is reproduced below:

> "…2. Reply to Query Nos.1 to 6: It is observed that the statistical information in the desired format - as sought by the applicant is not available with the CPIO as registered information. As the CPIO is not in possession of this data, the request of the applicant in this regard cannot be acceded to. Under the RTI Act, 2005, the CPIO is authorized to provide only such information as is available and existing and held by the Public Authority or is under the control of the Public Authority.
>
> 2.1. The Hon'ble Supreme Court in the case of CBSE Vs Aditya Bandopadhyay 8SCC 497 held at Para 63 of their order, that where the information sought is not part of the record of the Public Authority and where such information is not required to be maintained under any law or rules or regulations of the Public Authority, the Act does not cast an obligation upon the Public Authority, to collect or collate such non-available information and furnish it to the applicant…."

3. Aggrieved with the response of the CPIO, the appellant has filed the instant appeal. The appeal has been filed on the ground that the CPIO 'provided Incomplete, Misleading or False information'.

4. The appeal is adjudicated as under:

5. <u>Condonation of Delay in filing Appeal:</u>

5.1 As per Section 19(1) of the RTI Act, 2005 reproduced below, an appeal against the decision of the CPIO can be filed within a period of 30 days from the day of receipt of the decision of the CPIO.

> "19. (1) Any person who, does not receive a decision within the time specified in subsection (1) or clause (a) of sub-section (3) of section 7, or is aggrieved by a decision of the Central Public Information Officer or State Public Information Officer, as the case may be, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Central Public Information Officer or State Public Information Officer as the case may be, in each public authority: Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time…"

5.2 It is seen from records in the case of the appellant that, the decision of the CPIO in the matter was communicated to the appellant online on 11.07.2022. Therefore, the thirty-day period for filing appeal in the case of the appellant, against the aforesaid decision of the CPIO, expires on 10.8.2022. The appellant has filed the instant appeal online on 17.8.2022. Clearly, the appeal by the appellant is beyond the time period of 30 days, prescribed for the purpose under section 19(1) of the RTI Act, 2005.

5.3 Section 19(1) of the Act also provides that, appeal can be admitted after the expiry of thirty days if the appellate authority is satisfied that the appellant was prevented by sufficient cause for filing the appeal in time. In this case, the appellant has prayed for condonation of slight delay in filing appeal with reasons for the delay, which is considered to be satisfactory for the purpose.

5.4 Accordingly, the delay in filing of appeal in the case is condoned.

6. <u>Response of the CPIO to the RTI Application:</u>

6.1 The CPIO in her aforesaid reply to the appellant has stated that the statistical information sought for by the appellant is not available with the CPIO and as the CPIO is not in possession of this data, the request of the applicant in this regard cannot be acceded to. The CPIO also pointed out to the appellant that under the RTI Act, 2005, the CPIO is authorized to provide only such information as is available and existing and held by the Public Authority or is under the control of the Public Authority.

6.2 The CPIO placed reliance on the decision of the Hon'ble Supreme Court in the case of CBSE Vs. Aditya Bandopadhyay 8SCC 497 wherein it has been held at Para 63 of their order, that where the information sought is not part of the record of the Public Authority and where such information is not required to be maintained under any law or rules or regulations of the Public Authority, the Act does not cast an obligation upon the Public Authority, to collect or collate such non-available information and furnish it to the applicant.

7. <u>Contention of the appellant in appeal in brief:</u>

7.1 The appellant has contended that the CPIO's statement of not being in possession of the requested information, may not only be false but misleading and that the appellant is of the firm opinion that all the information sought in his RTI Application is already available with the public authority. The appellant submits in his appeal that, while researching the website of this public authority and its parent Ministry, namely, the Union Finance Ministry, in order to prepare for the submission of this appeal, this Appellant came across a document bearing the title: 'Statement of Revenue Impact of Tax Incentives under the Central Tax System: Financial Years 2019-20 and 2020-21', which mentions the Revenue Impact and Projected Revenue Impact on account of contributions to political parties (Section 80GGB). It is the contention of the appellant that, the said figures relating to political contributions made to political parties which attract Sections 80GGB of the Income Tax Act, 1961 would have been sourced from this public authority (that is the CPIO, CPC, Bengaluru) and none other, by the said Ministry.

7.2 It is also the appellant's contention that, when the CPIO made a determination that she does not have such information in her custody; she ought to have invoked her powers under Section 5(4) r/w Section 5(5) of the RTI Act to seek the assistance of any other officer of this public authority to obtain this information.

'

8. Foundation of appeal based on hypothetical premise:

8.1 It is seen that the foundation of the appeal is based on the premise that since 'documents allegedly available in public domain contains certain requested information the same must have been sourced from the CPC and from nowhere else. No basis has been furnished by the appellant for drawing such an inference. The information allegedly in public domain could have been sourced from places other than the CPC, ITR. A baseless hypothetical premise cannot be the foundation for arriving at a view that the CPIO's statement in her aforesaid reply that the requested information was not available with her is 'False' or 'Misleading'. Therefore, the appellant's contention in this regard is found to be devoid of merits.

9. Business Process at the CPC and reply of the CPIO:

9.1 It is necessary to point out here that the business process at the CPC is fully automated and there is no manual intervention. Information available in the CPC System / Server is stored in digitised form and retrieval of information from the system to the 'manually readable form' has to be permitted by the system architecture. It follows therefore that, even if particular information is available in the system in the digitised form, the CPIO can only have access to that available information, which the system architecture permits retrieval of, in a manually readable form. Even for this, the CPIO has to cause elaborate searches, compilation and related exercises through the various technical verticals involved if the said information is not part of the MIS Reports as registered information. It is seen from the aforesaid reply of the CPIO that she has made it clear that the information sought by the appellant is not available with the CPIO as registered information.

9.2 It is a settled position that, if the requested information is not maintained in the manner as asked for, the CPIO could not be asked to compile such data. The CPIO is expected to provide the information which is available and held with him / her. The CPIO is not required to collect and compile the information on the demand of a requester nor expected to create a fresh one merely because someone has asked for it. This is supported by the decision of the Hon'ble High Court of Delhi in their judgment dated 04-12-2014 in W.P.(C) 6634/2011 & CM No.13398/2011 in 'The Registrar', Supreme Court Of India v. Commodore Lokesh K. Batra and Ors., wherein, it has been observed as follows:-

> "…11. In so far as the question of disclosing information that is not available with the public authority is concerned, the law is now well settled that the Act does not enjoin a public authority to create, collect or collate information that is not available with it. There is no obligation on a public authority to process any information in order to create further information as is sought by an applicant…."

9.3 Further, the Hon'ble Supreme Court in Civil Appeal No. 6454 of 2011 dated 09/08/2011 in Central Board of Secondary Education & Anr. V. .Aditya Bandopadhyay & Ors., has observed as under:-

> "…Indiscriminate and impractical demands or directions under RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquillity and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritizing 'information furnishing', at the cost of their normal and regular duties…."

9.4 In the above case of CBSE Vs Aditya Bandopadhyay 8SCC 497, the Hon'ble Supreme Court held at Para 63 of their order, that where the information sought is not part of the record of the Public Authority and where such information is not required to be maintained under any law or rules or regulations of the Public Authority, the Act does not cast an obligation upon the Public Authority, to collect or collate such non-available information and furnish it to the applicant.

9.5 Attention of the appellant is also drawn to the decision of the Hon'ble CIC in the case of Mr. Purnendu Prakash Vs CPIO O/o. DIT (CPC), Bengaluru in F.No.CIC /CCITB/A/2019/148392 dated 25.05.2021, wherein reliance was placed on the judgment of the Hon'ble Supreme Court in the case of Central Board of Secondary Education Vs. Aditya Bandopadhyay aforesaid. In this decision the Hon'ble CIC has held that the CPIO is not obliged to compile any fresh data which entails disproportionate diversion of the resources of the public authority.

9.6 It follows from the above discussion that, the information sought for by the appellant as such, cannot be said to be even available, existing and held by the

CPIO. Nor is the CPIO in control of such information or as mentioned above, or is required to maintain the same under any law or rules or regulations of the Public Authority.

9.7 It is however seen that, the CPIO has not discussed the business process at CPC in her reply to the appellant dated: 11.07.2022. Therefore, gaps may have arisen in appreciating the CPIO's position in the case. *The CPIO is therefore directed to communicate to the appellant within 10 working days of receipt of this order, the business process at the CPC for an appreciation of the CPIO's position in the case of the appellant.*

10. Applicability of Section 5(4) r/w Section 5(5) of the RTI Act to the case of the appellant:

10.1 This contention of the appellant is for the CPIO to respond as to why the provisions were not invoked in the case of the appellant. Section 5(4) of the RTI Act states that the CPIO or SPIO, as the case may be, may seek the assistance of any other officer as he or she considers it necessary for the proper discharge of his or her duties. It is clear from the above language that, the provision may be invoked if the CPIO or SPIO considers it necessary to do so and therefore invoking the same would be in the area of judgment and discretion of the concerned CPIO.

10.2 *However, in view of the appellant's contention in this regard, the CPIO is directed to communicate to the appellant, within 10 working days of receipt of this order as to why the aforesaid provisions were not invoked by the CPIO in the case of the appellant.*

11. Conclusion:

11.1 The appellant has not been able to prove in appeal as to how the CPIO has furnished 'Incomplete', Misleading or False Information to the appellant, in view of the facts and circumstances of the case discussed above. On the contrary, it is seen that the CPIO has satisfactorily discharged her obligation under the RTI Act in the instant case of the appellant.

11.2 In the light of the discussions made above, it is held that the grounds of appeal of the appellant are devoid of merits and are dismissed. The appeal stands dismissed accordingly.

11.3 However, the CPIO is directed to comply with the direction at Paras 9.7 and 10.2 of this order supra, within 10 working days of receipt of this order.

12. An appeal against this order lies with the Central Information Commission (CIC), Room No.307, 2nd Floor, 'B' Wing, August Kranti Bhavan, Bhikaji Cama Place, New Delhi – 110066. The appeal, if any, is to be preferred within 90 days from the date of receipt of this order.

Sd/-

(Nilanjan Dey, I.R.S.)
Addl. Director of Income Tax, Unit-4 &
First Appellate Authority,
Centralized Processing Center,
Bengaluru

Copy to:

1. Shri Venkatesh Nayak, 55A, 3rd Floor, Siddharth Chambers-1, Kalu Sarai, New Delhi – 110 016

2. The CPIO (CPC), Bengaluru.

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