



भारत सरकार GOVERNMENT OF INDIA

सीमा शुल्क आयुक्त का कार्यालय (पोर्ट) OFFICE OF THE COMMISSIONER OF CUSTOMS(PORT)

सीमा शुल्क सदन, 15/1, स्ट्रैंड रोड, कोलकाता -700001

CUSTOM HOUSE, 15/1, STRAND ROAD, KOLKATA- 700 001

F. No. S37 (Misc.)-106/2017 Prev.

Date: 18-10-2017

F.No.S33-65/2016 Adjn (Port)

RTI/CUS/KOL/PORT/APPEAL04/2017 dt 24/10/17

To,

Shri Amit Agarwal

Director, Hari Wax-O-Chem Pvt. Ltd.,

157, Netaji Subhas Road,

3rd Floor, Room No. 184,

Kolkata-700 001.

Sub : Appeal before 1st Appellate authority against RTI reply- reg.

Please refer to your appeal before 1st Appellate Authority vide letter dated 15-09-2017 against RTI reply from this office dated 30-08-2017 on your RTI application dated 02-08-2017.

In this regard, this is to inform you that the undersigned uphold the reply by CPIO rejecting the RTI application on ground of section 8 (1) (h) of the RTI Act, 2005.

Regarding the applicant's contention that the matter is not covered under the above said section of the Act under investigation is misplaced. CIC (*Central Information Commission*) held in his decision against RTI case of **Shri Shanker Sharma and M/s First Global Stock Broking Pvt. Ltd & Others vs Director of Income Tax (Inv.)-II & CPIO, Deptt. Of Income Tax, Mumbai** vide F. No. CIC/AT/A/2007/00007 dated 10.07.2007 regarding exemptions of the Act ibid, which reads:

"Investigation into tax evasion can be said to be over or complete, only after final adjudication about the tax liability had been made after the matter has gone through all stages of appeals and revisions as well as a final decision about prosecuting or not prosecuting the person has been taken by an appropriate authority."

"The term 'investigation' used in section 8 (1) (h), in the context of this Act should be interpreted broadly and liberally. We cannot import into RTI Act the technical definition of 'investigation' one finds in criminal law. Here, investigation would mean all actions of law enforcement, disciplinary proceedings, enquiries, adjudications and so on. Logically no investigation could be said to be complete unless it has reached a point where final decision on the basis of that investigation is taken."

Moreover, in another RTI case of **Shri Vinod Kamble vs Customs Department**, Mumbai vide F. No. CIC/AT/A/2008/01466 dated 23.03.2009, the appellant asked for the copies of Show Cause Notices and other documents relating to the proceedings by the Directorate of Revenue Intelligence (DRI) and currently under adjudication by the Commissioner of Customs (Exports), CIC (Central Information Commission) has denied the information and held as follows:

"Once it is established that certain information requested by an applicant is related to a quasi-judicial proceedings, RTI Act cannot be invoked to access the information related to that proceedings."

In consideration of the above, the appeal is rejected.

(M.A. Ansari)
20/10/2017

(M.A. Ansari)

Additional Commissioner of Customs
(RTI, Port),
(First Appellate Authority)
Custom House, Kolkata.

To

1. The Deputy Commissioner of Customs
RTI (Port),
Custom House, Kolkata (for Information please).
2. The Deputy Commissioner of Customs
EDI Section,
Custom House, Kolkata (for uploading on the website).