

No. RTI/GoI/FinMin/2015/5

From,
Venkatesh Nayak
#55A, 3rd Floor
Siddharth Chambers-1
Kalu Sarai
New Delhi- 110 016

To,
The Central Public Information Officer
C/o Member-Secretary
Special Investigation Team on Black Money
Department of Revenue, Ministry of Finance
Government of India
Room No. 77A, North Block
New Delhi – 110 001

Dear sir/madam,

Sub: Submission of request for information under *The Right to Information Act, 2005*

Apropos of the enclosed copy of a news-clipping published in the popular English daily, the Times of India, dated 03/11/2015, I would like to obtain the following information from your public authority, under the RTI Act:

- 1) A clear photocopy of the letter reportedly written by Mr. Hervé Falciani, former employee of the Geneva branch of the HSBC Bank to the Hon'ble Chairman, Special Investigation Team (SIT) constituted pursuant to Order dated 4/7/2011, passed by Hon'ble Supreme Court of India, in Writ Petition (Civil) No. 176 of 2009;
- 2) A clear photocopy of all responses sent by the Hon'ble Chairman or any Member of or employee serving, the said SIT, to Mr. Hervé Falciani till date;
- 3) A clear photocopy of all file notings held by the said SIT in its files in hard copy of electronic form in relation to the said letter of Mr. Hervé Falciani;
- 4) A clear photocopy of all documents that contain details of action taken till date by the said SIT pursuant to the said letter of Mr. Hervé Falciani;
- 5) A list containing the titles of the reports submitted by the said SIT to the Government of India and the Hon'ble Supreme Court of India, till date, in pursuance of their terms of reference along with the date of submission of each report;
- 6) A clear photocopy of all reports described at para #5 above along with Annexures, if any; and

1

अधपत्रा COUNTERFOIL
इसे फाड़कर प्रेषक अपने पास रख ले।
To be detached and kept
by the Sender.

पोस्टल आर्डर
₹ 10
POSTAL ORDER

किसे अदा करना
To whom payable *A/c*
Dept. of Revenue, MOF.

किस डाकघर में
At what Office *GPO N. Delhi*

क्या इसे क्रॉस किया है
Whether crossed *No*

भेजने की तारीख
Date sent *4/11/15*

32F 044907

Date: 04/11/2015

भारतीय डाक
India Post

SP KRISHNA NAGAR <110051>
EP7504679501N
Counter No:3, OP-Code:5
To: THE CPTD,
NB, PIN:110001
From: VENKATESH PRASAD, DELHI
Wt:26grams,
Amt:17.00 , 05/11/2015 , 12:54
Taxes:Rs.2.00<<Track on www.indiapost.gov.in

- 7) A clear photocopy of all information required to be disclosed *suo motu* by the said SIT under Section 4(1) of the RTI Act;

I am a citizen of India. I have enclosed an IPO (bearing #32F 044907) for Rs. 10/- towards payment of the prescribed application fee. As I am unable to find the official website of the said SIT in the public domain, I am constrained to submit this formal request for information. I would like to receive the information specified above by post at my address mentioned above. Kindly inform me of the additional fee payable for obtaining the information specified above.

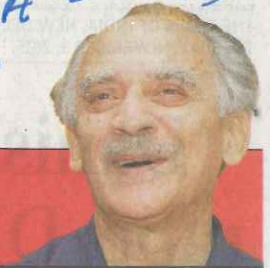
Thanking you,

Yours sincerely,

S.S. Venkatesh Nayak
4/11/15

Venkatesh Nayak

SHOURIE TARGETS PM AGAIN, SLAMS FM JAITLEY FOR JIBE AT PROTESTERS | 12



Govt lacks seriousness on stashed cash: Whistleblower

Man Who Leaked HSBC List Says A Lot Of Info Hasn't Been Used

TIMES NEWS NETWORK

New Delhi: Claiming that "millions of crores worth of illicit funds" were flowing out of India, HSBC whistleblower Hervé Falciani on Monday said he was willing to cooperate with investigative agencies on tracing black money, but felt "disappointed" by the response so far.

Falciani is facing charges in Switzerland of leaking bank account details from HSBC's Geneva branch — a list that reached the French government and was subsequently shared with New Delhi because it listed accounts of Indians who had stashed funds abroad.

"We are not here to talk about merely figures, but about possible solutions," Falciani said, adding that there is a "lot of information that has not been used by the Indian authorities".

Addressing reporters over Skype, Falciani said he would



Whistleblower Hervé Falciani

require protection if he were to assist the authorities in India. Falciani has in recent months written to India twice offering his assistance in the black money probe. In April, he wrote to PM Modi, while in August he wrote to special investigation team (SIT) chief Justice M B Shah (Retd). He, however, said he was disappointed with the response and "lack of seriousness of the Indian government".

Earlier this year, he had hinted that he possessed addi-

tional information on the lines of the list of 628 Indian entities holding accounts with the bank in Geneva. In the letter dated August 21, 2015, Falciani said, "There is an urgent need to focus... on unravelling the role of financial intermediaries. The investigation must not be restricted to interrogating clients just to find out how much they have in accounts but also how they proceeded. If this is not done, status quo will prevail as far as the black money problem in India is concerned."

Former AAP members Prashant Bhushan and Yogendra Yadav were also present at the press conference.

In his letter, Falciani had apparently said that the then SIT adviser K V Chowdary had met him in Paris in December, 2014, with regard to seeking assistance.

"Falciani pointed out the need to have Indian investigators joining in and continuing

the investigation with other countries, rather than working with data alone to get limited results as has been the case thus far. This is the only way that the missing links can be found between Indian and foreign banks," Bhushan claimed.

The senior lawyer sought to know why the government had not implemented the SIT's recommendation on doing away with the anonymity of participatory notes and acted on Falciani's advice on tracking down intermediaries and the mechanism to money laundering.

He also lashed out at the Centre for not yet notifying the Whistleblowers Act and instead trying to dilute the provisions of the legislation. Bhushan also attacked the Centre for not being "serious" about the issue. "The benevolent law on black money has not yielded results," he added.

For the full report, log on to www.timesofindia.com

BY SPEED POST
RTI MATTER

F.No.415/92/2015-IT(INV.I)
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
Central Board of Direct Taxes

New Delhi, dated the 09 December, 2015

To,

✓ Shri Venkatesh Nayak,
#55A, 3rd Floor,
Siddharth Chambers-1,
Kalu Sarai,
New Delhi - 110016.

Sub: RTI application dated 04.11.2015 under the Right to Information Act, 2005 filed by Shri Venkatesh Nayak, New Delhi.

Sir,

Kindly refer to your RTI application dated 04.11.2015 under Right to Information Act, 2005 which was received in this office on 02.12.2015.

2. The information being sought in your application, so far as the same relates to work area of Investigation-I Branch of Central Board of Direct Taxes (CBDT) is as under:

Point No. 1, 2, 3 & 4

Certain persons, claiming to be whistleblowers, have made offer of assistance in investigation of black money stashed away abroad. The Government has taken specific steps in this regard. Disclosure of the steps taken, at this stage, would not be in the interest of further investigations in view of the exemption from disclosure of information under the provisions of section 8(1)(h) of the RTI Act. Further, information is also sought to be exempt under the provisions of section 8(1)(e) of the RTI Act.

Point No. 5, 6 & 7

The information being sought is likely to be available with in the Office of Joint Secretary (Revenue) & Member Secretary to SIT, Department of Revenue. Therefore, the RTI application is being transferred to you under Section 6(3) of

the RTI Act, 2005 for necessary action at your end. In case some of the points mentioned in the RTI application do not pertain to your jurisdiction, the same may kindly be sent to the concerned CPIO to provide information in respect of such points directly to the RTI applicant.

3. Your application is accordingly disposed of u/s 7 of the Right to Information Act, 2005. Appeal against this order, if any desired, can be preferred before the following Appellate Authority:

**“Deputy Secretary (Investigation-I)
Central Board of Direct Taxes,
Room No. 243-F, North Block,
New Delhi-110001”**

Yours faithfully,


(Mritunjaya Sharma)
DCIT(OSD)(Inv.I) & CPIO

Copy for necessary action to (with enclosures):-

**Central Public Information Officer,
O/o Joint Secretary (Revenue) &
Member Secretary to SIT,
Department of Revenue,
North Block, New Delhi.**

Before the Designated First Appellate Authority

and Deputy Secretary (Investigation-I)

Central Board of Direct Taxes, Department of Revenue,

Government of India

Room No. 243-F, North Block, New Delhi – 110 001

Appeal filed under Section 19(1) of the Right to Information Act, 2005

In the matter of

Venkatesh Nayak vs CPIO, CBDT

Date of submission : 13/01/2016

Table of Contents

<u>No.</u>	<u>Item</u>	<u>Page</u>
1.	Letter of First Appeal submitted under Section 19(1) of the RTI Act	2-6
2.	Annexe1: Self-attested copy of the RTI application dated 04/11/2015	7-9
3.	Annexe 2: Self-attested copy of the CPIO's reply dated 09/12/2015	10-11



S.S. Venkatesh Nayak

Before the Designated First Appellate Authority
and Deputy Secretary (Investigation-I)
Central Board of Direct Taxes, Department of Revenue,
Government of India
Room No. 243-F, North Block, New Delhi – 110 001

Appeal filed under Section 19(1) of the Right to Information Act, 2005

Date: 13/01/2016

- 1) Name and address of the appellant :** Venkatesh Nayak
#55A, 3rd Floor
Siddharth Chambers-1
Kalu Sarai
New Delhi- 110 016
- 2) Name and address of the Central Public Information Officer (CPIO) to whom the Application was addressed :** The Central Public Information Officer cum
C/o Member Secretary
Special Investigation Team on Black Money
Department of Revenue, Ministry of Finance
Government of India
Room No. 77A, North Block
New Delhi – 110 001
- 3) Name and address of the Officer who gave reply to the Application :** Shri Mrityunjay Sharma
CPIO & DCIT (OSD) (Inv.I)
Central Board of Direct Taxes
Department of Revenue
Ministry of Finance
Government of India
New Delhi
- 4) Particulars of the RTI application-**
- a) No. and date of submission of the RTI application :** No. RTI/GoI/FinMin/2015/5 dated
04/11/2015
- b) Date of payment of additional fee (if any) :** Not applicable.
- 5) Particulars of the order(s) including number, if any against which the appeal is preferred :** Communication F. No. 415/92/2015-IT
(INV.I) dated 09/12/2015

S.S. Venkatesh Nayak

6) Brief facts leading to the appeal :

6.1) On 04/11/2015 this Appellant despatched by Speed Post a request for information to the CPIO mentioned at para #2 above along with the prescribed application fee, stating as follows (**Annexe 1**):

"Apropos of the enclosed copy of a news-clipping published in the popular English daily, the Times of India, dated 03/11/2015, I would like to obtain the following information from your public authority, under the RTI Act:

- 1) A clear photocopy of the letter reportedly written by Mr. Hervé Falciani, former employee of the Geneva branch of the HSBC Bank to the Hon'ble Chairman, Special Investigation Team (SIT) constituted pursuant to Order dated 4/7/2011, passed by Hon'ble Supreme Court of India, in Writ Petition (Civil) No. 176 of 2009;
- 2) A clear photocopy of all responses sent by the Hon'ble Chairman or any Member of or employee serving, the said SIT, to Mr. Hervé Falciani till date;
- 3) A clear photocopy of all file notings held by the said SIT in its files in hard copy or of electronic form in relation to the said letter of Mr. Hervé Falciani;
- 4) A clear photocopy of all documents that contain details of action taken till date by the said SIT pursuant to the said letter of Mr. Hervé Falciani;
- 5) A list containing the titles of the reports submitted by the said SIT to the Government of India and the Hon'ble Supreme Court of India, till date, in pursuance of their terms of reference along with the date of submission of each report;
- 6) A clear photocopy of all reports described at para #5 above along with Annexures, if any; and
- 7) A clear photocopy of all information required to be disclosed *suo motu* by the said SIT under Section 4(1) of the RTI Act."

6.2) On 14/12/2015 this Appellant received a reply of number and date captioned at para #5 above, from the CPIO mentioned at para #3 above, stating as follows (**Annexe 2**):

"2. The information being sought in your application, so far as the same relates to the work area of Investigation-I Branch of Central Board of Direct Taxes (CBDT is as under):

Point No. 1, 2, 3 & 4

Certain persons, claiming to be whistleblowers, have made offer of assistance in investigation of black money stashed away abroad. The Government has taken specific steps in this regard. Disclosure of the steps taken at this stage, would not be in the interest of further investigations in view of the exemption from disclosure

S.S. Venkatesh Noyak

of information under the provisions of Section 8(1)(h) of the RTI Act. Further, information is also sought to be exempt under the provisions of section 8(1)(e) of the RTI Act.

Point No. 5,6 & 7

The information being sought is likely to be available with in the office of the Joint Secretary (Revenue) and Member Secretary to SIT, department of Revenue. Therefore the RTI application is being transferred to you under Section 6(3) of the RTI Act, 2005 for necessary action at your end. In case some of the points mentioned in the RTI application do not pertain to your jurisdiction, the same may kindly be sent to the concerned CPIO to provide information in respect of such points directly to the RTI applicant."

With these words, the said CPIO disposed of this Appellant's RTI application.

6.3) This Appellant has not received till date any further communication from anybody else in the Respondent Public Authority or the other CPIO to whom the instant RTI application stands transferred.

6.4) This Appellant is aggrieved by the action and the decision of the said CPIO for reasons explained below.

7) Prayers or relief sought :

This Appellant prays that this First Appellate Authority be pleased to:

- 1) admit this appeal and inquire into the matters raised herein;**
- 2) direct the CPIO to transfer the entire RTI application *de novo* and properly to the original CPIO to whom it was addressed; and**
- 3) issue an official memorandum to the CPIO to discharge his statutory responsibilities under the RTI Act with greater care and diligence in future.**

8) Grounds for the prayer or relief :

8.1) According to Section 7(1) of the RTI Act it is the express duty of the CPIO to make a decision of disclosure of information on receipt of the prescribed additional fee or reject the request for information for any of the reasons specified in Sections 8 and 9 of the RTI Act, if the information pertains to his/her public authority. If the requested information is held by or is more closely related to the working of another public authority, he/she is required to transfer the RTI application to such other public authority within five days under intimation to the RTI applicant, under Section 6(3) of the RTI Act. Under Section 19(1) of the RTI Act, Any person who is aggrieved by a decision of the CPIO may prefer an appeal within 30 days of receipt of the decision of the CPIO. This Appellant received the decision of number and date captioned at para #5 above, from the CPIO mentioned at para #3 above on 14/12/2015. **This first appeal is being submitted on the 30th day of receipt of the**

S.S. Venkatesh Nayak

said CPIO's decision. Therefore this appeal is fit for admission and inquiry into its contents by this Hon'ble First Appellate Authority for the following reasons:

8.1.1) This Appellant affirms that the original RTI application of number and date captioned at para #4(a) above, was never addressed to the CPIO mentioned at para #3 in the first place. This RTI application was addressed to the very CPIO designated in the O/o the Member Secretary, Black Money SIT to whom the CPIO mentioned at para #3 transferred the instant RTI application vide his letter of number and date captioned at para #5 above vis-à-vis paras #5,6 & 7 of that RTI application. This Appellant had never sought any information from either the CBDT or the said CPIO. The information sought at paras #1-4 of the instant RTI application were all directed to the CPIO designated in the O/o of the Member Secretary, Black Money SIT. This Appellant is not privy to any fact as to how the instant RTI application came into the possession of the CPIO mentioned at para #3 above. This Appellant has not received any communication from either the original addressee or any other authority in CBDT indicating that the instant RTI application had been transferred to the CPIO mentioned at para #3 above for appropriate action.

This Appellant being a conscientious citizen of India had despatched the instant RTI application with the full knowledge that it is required to be dealt with by the CPIO of the addressee public authority, namely, the Black Money SIT. Nevertheless the CPIO mentioned at para #3 above has elected to make a decision on an RTI application that was never intended to seek information from him in the first place. Therefore this Appellant avers that the said CPIO's decision is without jurisdiction and deserves to be set aside. **Hence the submission of this first appeal before this Hon'ble First Appellate Authority.**

8.1.2) Further, the manner in which the CPIO referred to at para #3 above has proceeded to make a decision on paras #1-4 of the instant RTI application demonstrates a complete lack of application of mind to the contents of the RTI application. His response is addressed to this Appellant as evidenced by the contents of his response contained in Annexe 2. The language of para #2 of the said CPIO's response seems to indicate that this Appellant is required to take action in relation to paras #5-7 contained in it. This response is primarily addressed to this Appellant and copied to the CPIO, Member Secretary, Black Money SIT. Instead it should have been the other way around, where the communication is primarily addressed to the CPIO, O/o Member Secretary, Black Money SIT and copied to this Appellant. This lapse is also indicative of the casual manner in which the said CPIO has dealt with the instant RTI application. Therefore his decision deserves to be set aside on grounds of inadequate application of mind. **Hence the submission of this first appeal before this Hon'ble First Appellate Authority.**

8.1.3) Further, according to Section 6(3) of the RTI Act, a CPIO must effect the transfer of an RTI application wholly or in part to another public authority that is competent to deal with the information request within five days of receipt of the RTI application. The instant RTI application was despatched via Speed Post on 5/11/2015. The RTI application would have reached the public authority within at least week of despatch. However the reply of the CPIO mentioned at para #3 above is dated 09/12/2015 almost four weeks after it would

S. Shankarish Nayak

have reached the public authority. The said CPIO has not acted in accordance with the time limit laid down in Section 6(3) of the RTI Act and has caused undue delay in the transfer of a portion of the instant RTI application. This Appellant is aggrieved by this delay caused by the said CPIO. **Hence the submission of this first appeal before this Hon'ble First Appellate Authority.**

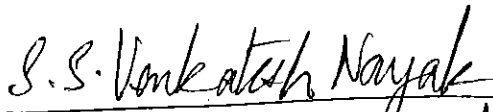
8.1.4) Further, as the CPIO referred to at para #3 above has not transferred paras #1-4 of the instant RTI application to the CPIO, O/o Member Secretary, Black Money SIT, this Appellant is unable to take any further action with regard to the said paras of the RTI application except challenge the decision taken by the said CPIO. As this Appellant has already demonstrated above that the CPIO mentioned at para #3 above was not competent to make a decision on paras #1-4 of the instant RTI application, this Appellant has no choice but to pray that this Hon'ble First Appellate Authority himself transfer the instant RTI application in its entirety, *de novo* to the CPIO, O/o Member Secretary, Black Money SIT for further action to be taken within the terms of Section 7(1) of the RTI Act. On the other hand, this Hon'ble Appellate Authority may also direct the CPIO mentioned at para #3 above to transfer the instant RTI application in its entirety, *de novo* to the CPIO, O/o Member Secretary, Black Money SIT under Section 6(3) of the RTI Act. **Hence the submission of this first appeal before this Hon'ble First Appellate Authority.**

8.1.5) Further, as this Appellant has already contended that the CPIO mentioned at para #3 above is not competent to make a decision with regard to information sought at any of the paras contained in the instant RTI application, this Appellant is not forwarding any argument to counter the decision of the said CPIO to invoke Sections 8(1)(h) and 8(1)(e) of the RTI Act.

8.1.6) Further, the actions of the CPIO referred to at para #3 above have already caused enormous delay in the processing of the instant RTI application by the appropriate CPIO. Therefore this Appellant prays that an official memorandum be issued to the said CPIO to discharge his responsibilities under the RTI Act with greater diligence in future.

9) I hereby verify that the aforementioned facts are true to the best of my knowledge. I also declare that I have authenticated the Annexes to this appeal.

Signature of the Appellant:


(Venkatesh Nayak) 13/1/16

F.No.415/92/2015-IT(Inv.I)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

Room No. 243-F, North Block, New Delhi

Sub: Appeal in respect of RTI application

- a. Name of the Appellant : Shri Venkatesh Nayak
- b. Address : #55A, 3rd Floor,
Siddharth Chambers-1,
Kalu Sarai,
New Delhi - 110016
- c. Date of order : 12.02.2016

ORDER

The present appeal dated 13th January 2016 has been filed by the Appellant against the order of the DCIT(OSD)(Inv.I), CBDT & CPIO [hereinafter 'the CPIO'] dated 9th December 2015 in F.No.415/92/2015-IT(Inv.I). The appeal was received in this office on 18th January 2016.

2. The Appellant had filed an RTI application dated 04.11.2015, addressed to CPIO C/o Member-Secretary, SIT on Black Money, which was received in the CPIO's office on 02.12.2015. The Appellant, vide the above RTI application, had requested certain information in connection with a news-item published in an English newspaper, enclosing a copy of the said news-item. On perusal of the RTI application, it could be seen that he had requested information on 7 points, sr. numbered from 1 to 7.

3. In response to the above RTI application, the CPIO vide his order/letter dated 9th December 2015 had disposed of the application. It is seen from the CPIO's order that in respect of the information requested vide points 1 to 4 so far as the same relates to work area of Investigation-I Branch of CBDT, he has held that the information sought is exempt from disclosure under the provisions of sections 8(1)(h) and 8(1)(e) of the RTI Act. As regards the information sought vide points 5 to 7 of the RTI application, he has transferred these points under section 6(3) of the RTI Act to CPIO O/o Joint Secretary(Revenue) & Member Secretary of the SIT for appropriate action under the RTI Act.

4. Not satisfied with the above order of the CPIO, the Appellant has filed the present appeal wherein he has, *inter alia*, raised the following main contentions:

(i) The information sought in the above RTI application were all directed to CPIO O/o Joint Secretary(Revenue) & Member Secretary of the SIT whereas the CPIO of Investigation-I Branch of CBDT has transferred only points 5 to 7 of the RTI application under section 6(3) of the RTI Act to him.

- (ii) The language of para #2 of the said CPIO's order seems to indicate that the Appellant is required to take action in relation to points 5 to 7 of the RTI application as the CPIO's order/letter is addressed to him.
- (iii) The CPIO has not acted in accordance with the time limit laid down in section 6(3) of the RTI Act while transferring it to other CPIO.
- (iv) The CPIO of Investigation-I Branch of CBDT was not competent to make a decision on points 1 to 4 of the RTI application and he should have transferred all the points 1 to 7 of the application to CPIO O/o Joint Secretary(Revenue) & Member Secretary of the SIT.
- (v) Action of the CPIO has caused delay in the processing of the above RTI application and he should be advised to discharge his responsibilities under the RTI Act with greater diligence in future.

5. The Appellant has sought the following relief:- (i) The CPIO may be directed to transfer the entire application de novo and properly to the original CPIO to whom it was addressed, (ii) The CPIO may be advised to discharge his statutory responsibilities under the RTI Act with greater care and diligence in future.

6. I have perused the matter. The Appellant's RTI application was forwarded to the CPIO of Investigation-I Branch of CBDT vide letter dated 12.11.2015 of RTI Cell of Department of Revenue which was received by him on 02.12.2015.

6.1 As regards the issue of competence of the CPIO of Investigation-I Branch of CBDT in handling the RTI application, it is pertinent to note that the nature of information being sought in an RTI application and the public authority holding the information may be relevant important factors in determining the competence of an appropriate CPIO to handle the RTI application. The provisions of section 6(3) provided in the Statute (RTI Act) also support this position. Therefore, it does not appear appropriate for the Appellant to decide and make comments regarding competency of the CPIO is handling his application. In view of the above, the Appellant's contention in this regard does not appear to be a valid contention.

6.2 In respect of the information sought vide points 1 to 4 of the RTI application so far as the same relates to work area of Investigation-I Branch of CBDT, the CPIO has held that the information sought is exempt from disclosure under the provisions of sections 8(1)(h) and 8(1)(e) of the RTI Act. It is found that the information sought vide these points of the RTI application is exempt from disclosure as per provisions of section 8(1)(h) of the RTI Act as this would impede the process of investigation or apprehension or prosecution of offenders. Further, the information sought vide these points is also exempt from disclosure as per provisions of section 8(1)(e) of the RTI Act. In view of the above, the CPIO has rightly held the information sought vide these points as exempt from disclosure under relevant provisions of section 8(1) of the RTI Act.

6.3 It is, however, seen that after giving his finding regarding the information sought vide points 1 to 4 of the RTI application in respect of the work area of Investigation-I Branch of CBDT, as discussed in sub-para 6.2 above, the CPIO should have also transferred these points to other CPIO i.e. CPIO O/o Joint Secretary(Revenue) & Member Secretary of the SIT for appropriate action under the RTI Act as considering the nature of the information being sought vide these points, the other CPIO i.e. CPIO O/o Joint Secretary(Revenue) & Member Secretary of the SIT appears to be relevant for these points also. Therefore, the CPIO is directed to also transfer these points to the other CPIO i.e. CPIO O/o Joint

Secretary(Revenue) & Member Secretary of the SIT for appropriate action under the RTI Act.

6.4 As regards the issue of language of para 2 of the CPIO's order/letter, it is seen that as the CPIO's letter is addressed to the Appellant he should have been more careful and diligent in use of the language/words while transferring points 5 to 7 of the RTI application to the other CPIO which prima facie indicates to suggest requirement of action on the part of the Appellant. However, as the opening line of the CPIO's order/letter in respect of such transfer of points 5 to 7 states that the information being sought is likely to be available with the office of Joint Secretary(Revenue) & Member Secretary of the SIT, it becomes clear that the above-mentioned likely confusion was neither intended nor meant by him. The CPIO may issue an appropriate clarification in this regard to all concerned. Further, the CPIO is advised to be more cautious and diligent while drafting his orders under the RTI Act, in future.

6.5 As regards the issue of the time-limit for transferring the application under section 6(3) to the other CPIO, it is seen that the time-limit prescribed in this regard has not been adhered to in this case. The CPIO is directed to strictly adhere to the time limit prescribed under section 6(3) of the RTI Act for transferring the RTI applications to other CPIO, in future.

7. The CPIO is directed to take appropriate action regarding the above in respect of this case **within 3 days of receipt of this order**. Subject to the above, the CPIO's order of 9th December 2015 is upheld.

8. The appeal is disposed of accordingly. Further appeal, if any, desired against this order, may be filed before the Central Information Commission, August Kranti Bhavan, Bhikaji Cama Place, New Delhi.

Sd/-
(Santosh Kumar)
Dy. Secretary(Inv.I), CBDT and Appellate Authority

Copy to:

- ✓ 1. Shri Venkatesh Nayak, #55A, 3rd Floor, Siddharth Chambers-1, Kalu Sarai, New Delhi - 110016
2. Shri Mritunjaya Sharma, DCIT(OSD)(Inv.I), CBDT & CPIO

Sd/-
(Santosh Kumar)
Dy. Secretary(Inv.I), CBDT and Appellate Authority

BY SPEED POST
RTI MATTER

F.No.415/92/2015-IT(INV.I)
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
Central Board of Direct Taxes

New Delhi, dated the 16th February, 2016

OFFICE MEMORANDUM

Subject:-Appeal in respect of RTI application.

The RTI application No.RTI/Gol/FinMin/2015/5 dated 04.11.2015 was received by the undersigned from RTI Cell on 02.12.2015 which was received by it from US(Ad.ED), CPIO under Member Secretary to SIT on Black Money on 20.11.2015 with the remarks "Pertains to IT(Inv.I)".

As per undersigned order dated 09.12.2015 passed under section 7 of RTI Act (Copy enclosed), point nos. 5 to 7 were transferred to CPIO, O/o Joint Secretary(Revenue) & Member Secretary to SIT for disposal. However, as observed and directed at para 6.3 and 6.4 by First Appellate Authority (FAA) in order dated 12.02.2016 (copy enclosed), the RTI application of the applicant is hereby sent to CPIO, O/o Joint Secretary (Revenue) & Member Secretary to SIT afresh for all the points of the application (Point Nos. 1 to 7) for reply as deemed appropriate. The reply of the Investigation Division of CBDT has already been sent to the applicant vide order dated 09.12.2015 as referred above.

Encl: As above.

(Mritunjaya Sharma)
DCIT(OSD)(Inv.I) & CPIO

Central Public Information Officer,
O/o Joint Secretary (Revenue) &
Member Secretary to SIT,
Department of Revenue,
North Block, New Delhi.

Copy for information to:

- ✓ 1) Shri Venkatesh Nayak,
#55A, 3rd Floor, Siddharth Chambers-1,
Kalu Sarai, New Delhi - 110016.
- 2) D.S.(Inv.I), First Appellate Authority.

Mritunjaya
16/02/16
DCIT(OSD)(Inv.I) & CPIO

Before the Central Information Commission

2nd Floor, 'B' Wing, August Kranti Bhawan, Bhikaiji Cama Place, New Delhi- 110 066

Complaint submitted under Section 18(1)(f) of *The Right to Information Act, 2005*
with prayers for condonation of delay and specific reliefs and issue of general directions

In the matter of

Venkatesh Nayak

vs

The Special Investigation Team, Department of Revenue, Ministry of Finance
(also popularly known as Black Money SIT)

&

the Department of Personnel and Training,
Government of India

Date of submission: 11/07/2016

Index of Contents

<u>No.</u>	<u>Item</u>	<u>Page</u>
1.	Letter of Complaint submitted under Section 18(1)(f) of the RTI Act	2-11
2.	Annexe 1: Self-attested copy of the RTI application dated 04/11/2015	12-14
3.	Annexe 2: Self-attested copy of the reply received from the CPIO dated	15-16
3.	Annexe 3: Self-attested copy of the first appeal dated	17-22
4.	Annexe 4: Self-attested copy of the order of the First Appellate Authority dated	23-25
5.	Annexe 5: Self-attested copy of the letter received from the CPIO, CBDT dated	26
6.	Annexe 6: Self-attested copy of the notification constituting the 1st Respondent Public Authority	27-28

Venkatesh Nayak

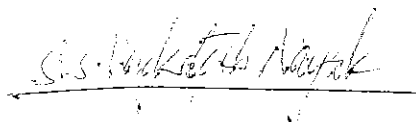
Before the Central Information Commission

2nd Floor, 'B' Wing, August Kranti Bhawan, Bhikaiji Cama Place, New Delhi- 110 066

Complaint submitted under Section 18(1)(f) of *The Right to Information Act, 2005*
with prayers for condonation of delay and specific reliefs and issue of general directions

Date: 11/07/2016

- 1) Name and address of the Complainant : Venkatesh Nayak
#55A, 3rd Floor
Siddharth Chambers-1
Kalu Sarai
New Delhi-110016
- 2) Name and address of the Public Information Officer to whom the RTI application was addressed : The Central Public Information Officer
c/o Member Secretary
Special Investigation Team on Black Money
Department of Revenue
Ministry of Finance
Room No. 77A, North Block
New Delhi – 110 001
- 3) Name and address of the Public Information Officer who gave reply to the RTI application : Shri Mrityunjaya Sharma
CPIO and DCIT (OSD) (Inv.I)
Central Board of Direct Taxes
Department of Revenue
Ministry of Finance
Government of India
New Delhi – 110 001
- 4) Name and address of the First Appellate Authority to whom the first appeal was submitted : The First Appellate Authority &
Deputy Secretary (Investigation-I)
Central Board of Direct Taxes
Department of Revenue
Government of India
Room No. 243-F, North Block
New Delhi – 110 001
- 5) Name and address of the First Appellate Authority who decided the first appeal : Shri Santosh Kumar
First Appellate Authority &
Dy. Secretary (Inv. I)
Central Board of Direct Taxes
Department of Revenue
Government of India
Room No. 243-F, North Block
New Delhi



- 6) Name and address of the 2nd Respondent Public Authority : The Secretary
Department of Personnel and Training
Ministry of Personnel, Public Grievances
and Pensions
Government of India
North Block
New Delhi – 110 001
- 7) Particulars of the RTI application :
- a) Date of submission of the RTI application : 04/11/2015
- b) Date of payment of additional fee (if any) : Not applicable
- 8) Particulars of the order(s) including number, regarding which the complaint is preferred : Communication issued by the CPIO & DCIT (OSD) (Inv.I) of F. No. 415/92/2015-IT (Inv.I) dated 16/02/2016

9) Brief facts leading to the complaint :

9.1) On 4/11/2015, this Complainant submitted via Speed Post, a request to the CPIO of the public authority specified at para #2 above, seeking specific information under the RTI Act, and stating as follows (**Annexe 1**):

"Apropos of the enclosed copy of a news-clipping published in the popular English daily, the Times of India, dated 03/11/2015, I would like to obtain the following information from your public authority, under the RTI Act:

- 1) A clear photocopy of the letter reportedly written by Mr. Hervé Falciani, former employee of the Geneva branch of the HSBC Bank to the Hon'ble Chairman, Special Investigation Team (SIT) constituted pursuant to Order dated 4/7/2011, passed by Hon'ble Supreme Court of India, in Writ Petition (Civil) No. 176 of 2009;
- 2) A clear photocopy of all responses sent by the Hon'ble Chairman or any Member of or employee serving, the said SIT, to Mr. Hervé Falciani till date;
- 3) A clear photocopy of all file notings held by the said SIT in its files in hard copy of electronic form in relation to the said letter of Mr. Hervé Falciani;
- 4) A clear photocopy of all documents that contain details of action taken till date by the said SIT pursuant to the said letter of Mr. Hervé Falciani;
- 5) A list containing the titles of the reports submitted by the said SIT to the Government of India and the Hon'ble Supreme Court of India, till date, in pursuance of their terms of reference along with the date of submission of each report;

S. S. Venkatesh Nayak

- 6) A clear photocopy of all reports described at para #5 above along with Annexures, if any; and
- 7) A clear photocopy of all information required to be disclosed *suo motu* by the said SIT under Section 4(1) of the RTI Act;"

9.2) On 14/12/2015 this Complainant received a reply dated 09/12/2015, from the CPIO mentioned at para #3 above, stating as follows (**Annexe 2**):

"2. The information being sought in your application, so far as the same relates to the work area of Investigation-I Branch of Central Board of Direct Taxes (CBDT is as under):

Point No. 1, 2, 3 & 4

Certain persons, claiming to be whistleblowers, have made offer of assistance in investigation of black money stashed away abroad. The Government has taken specific steps in this regard. Disclosure of the steps taken at this stage, would not be in the interest of further investigations in view of the exemption from disclosure of information under the provisions of Section 8(1)(h) of the RTI Act. Further, information is also sought to be exempt under the provisions of section 8(1)(e) of the RTI Act.

Point No. 5, 6 & 7

The information being sought is likely to be available with in the office of the Joint Secretary (Revenue) and Member Secretary to SIT, department of Revenue. Therefore the RTI application is being transferred to you under Section 6(3) of the RTI Act, 2005 for necessary action at your end. In case some of the points mentioned in the RTI application do not pertain to your jurisdiction, the same may kindly be sent to the concerned CPIO to provide information in respect of such points directly to the RTI applicant."

With these words, the said CPIO disposed of this Complainant's RTI application.

9.3) Aggrieved with the said CPIO's reply, this Complainant submitted a first appeal, via Speed Post, on 13/01/2016, to the designated First Appellate Authority specified at para #4 above praying as follows (**Annexe 3**):

"This Appellant prays that this First Appellate Authority be pleased to:

- 1) admit this appeal and inquire into the matters raised herein;
- 2) direct the CPIO to transfer the entire RTI application *de novo* and properly to the original CPIO to whom it was addressed; and
- 3) issue an official memorandum to the CPIO to discharge his statutory responsibilities under the RTI Act with greater care and diligence in future."

9.4) This Complainant pleaded the following grounds in support of his first appeal, before the designated First Appellate Authority (**Annexe 3**):

"8.1) According to Section 7(1) of the RTI Act it is the express duty of the CPIO to make a decision of disclosure of information on receipt of the prescribed additional

S. S. Venkatesh Nayak

fee or reject the request for information for any of the reasons specified in Sections 8 and 9 of the RTI Act, if the information pertains to his/her public authority. If the requested information is held by or is more closely related to the working of another public authority, he/she is required to transfer the RTI application to such other public authority within five days under intimation to the RTI applicant, under Section 6(3) of the RTI Act. Under Section 19(1) of the RTI Act, Any person who is aggrieved by a decision of the CPIO may prefer an appeal within 30 days of receipt of the decision of the CPIO. This Appellant received the decision of number and date captioned at para #5 above, from the CPIO mentioned at para #3 above on 14/12/2015. **This first appeal is being submitted on the 30th day of receipt of the said CPIO's decision. Therefore this appeal is fit for admission and inquiry into its contents by this Hon'ble First Appellate Authority for the following reasons:**

8.1.1) This Appellant affirms that the original RTI application of number and date captioned at para #4(a) above, was never addressed to the CPIO mentioned at para #3 in the first place. This RTI application was addressed to the very CPIO designated in the O/o the Member Secretary, Black Money SIT to whom the CPIO mentioned at para #3 transferred the instant RTI application vide his letter of number and date captioned at para #5 above vis-à-vis paras #5,6 & 7 of that RTI application. This Appellant had never sought any information from either the CBDT or the said CPIO. The information sought at paras #1-4 of the instant RTI application were all directed to the CPIO designated in the O/o of the Member Secretary, Black Money SIT. This Appellant is not privy to any fact as to how the instant RTI application came into the possession of the CPIO mentioned at para #3 above. This Appellant has not received any communication from either the original addressee or any other authority in CBDT indicating that the instant RTI application had been transferred to the CPIO mentioned at para #3 above for appropriate action.

This Appellant being a conscientious citizen of India had despatched the instant RTI application with the full knowledge that it is required to be dealt with by the CPIO of the addressee public authority, namely, the Black Money SIT. Nevertheless the CPIO mentioned at para #3 above has elected to make a decision on an RTI application that was never intended to seek information from him in the first place. Therefore this Appellant avers that the said CPIO's decision is without jurisdiction and deserves to be set aside. **Hence the submission of this first appeal before this Hon'ble First Appellate Authority.**

8.1.2) Further, the manner in which the CPIO referred to at para #3 above has proceeded to make a decision on paras #1-4 of the instant RTI application demonstrates a complete lack of application of mind to the contents of the RTI application. His response is addressed to this Appellant as evidenced by the contents of his response contained in Annexe 2. The language of para #2 of the said CPIO's response seems to indicate that this Appellant is required to take action in relation to paras #5-7 contained in it. This response is primarily addressed to this Appellant and copied to the CPIO, Member Secretary, Black Money SIT. Instead it should have been the other way around, where the communication is primarily addressed to the CPIO, O/o Member Secretary, Black Money SIT and copied to this Appellant. This lapse is also indicative of the casual manner in which the said CPIO has dealt with the instant RTI application. Therefore his decision deserves to be set

S. S. Venkatesh Nayak

aside on grounds of inadequate application of mind. ***Hence the submission of this first appeal before this Hon'ble First Appellate Authority.***

8.1.3) Further, according to Section 6(3) of the RTI Act, a CPIO must effect the transfer of an RTI application wholly or in part to another public authority that is competent to deal with the information request within five days of receipt of the RTI application. The instant RTI application was despatched via Speed Post on 5/11/2015. The RTI application would have reached the public authority within at least week of despatch. However the reply of the CPIO mentioned at para #3 above is dated 09/12/2015 almost four weeks after it would have reached the public authority. The said CPIO has not acted in accordance with the time limit laid down in Section 6(3) of the RTI Act and has cause undue delay in the transfer of a portion of the instant RTI application. This Appellant is aggrieved by this delay caused by the said CPIO. ***Hence the submission of this first appeal before this Hon'ble First Appellate Authority.***

8.1.4) Further, as the CPIO referred to at para #3 above has not transferred paras #1-4 of the instant RTI application to the CPIO, O/o Member Secretary, Black Money SIT, this Appellant is unable to take any further action with regard to the said paras of the RTI application except challenge the decision taken by the said CPIO. As this Appellant has already demonstrated above that the CPIO mentioned at para #3 above was not competent to make a decision on paras #1-4 of the instant RTI application, this Appellant has no choice but to pray that this Hon'ble First Appellate Authority himself transfer the instant RTI application in its entirety, *de novo* to the CPIO, O/o Member Secretary, Black Money SIT for further action to be taken within the terms of Section 7(1) of the RTI Act. On the other hand, this Hon'ble Appellate Authority may also direct the CPIO mentioned at para #3 above to transfer the instant RTI application in its entirety, *de novo* to the CPIO, O/o Member Secretary, Black Money SIT under Section 6(3) of the RTI Act. ***Hence the submission of this first appeal before this Hon'ble First Appellate Authority.***

8.1.5) Further, as this Appellant has already contended that the CPIO mentioned at para #3 above is not competent to make a decision with regard to information sought at any of the paras contained in the instant RTI application, this Appellant is not forwarding any argument to counter the decision of the said CPIO to invoke Sections 8(1)(h) and 8(1)(e) of the RTI Act.

8.1.6) Further, the actions of the CPIO referred to at para #3 above have already caused enormous delay in the processing of the instant RTI application by the appropriate CPIO. Therefore this Appellant prays that an official memorandum be issued to the said CPIO to discharge his responsibilities under the RTI Act with greater diligence in future."

9.5) On 12.02.2016, the designated First Appellate Authority specified at para #5 above was pleased to issue directions *inter alia* to the CPIO mentioned at para #3, as follows (**Annexe 4**):

"6.3 It is however, seen that after giving his finding regarding the information sought vide points 1 to 4 of the RTI application in respect of the work area of Investigation-I Branch of CBDT, as discussed a sub-para 6.2 above, the CPIO should have also transferred these points to other CPIO i.e. CPIO O/o Joint

Secretary (Revenue) & Member Secretary of the SIT for appropriate action under the RTI Act considering the nature of the information being sought vide these points, the other CPIO i.e., CPIO O/o Joint Secretary (Revenue) & Member Secretary of the SIT appears to be relevant for these points also. Therefore, the CPIO is directed to also transfer these points to the other CPIO i.e. CPIO O/o Joint Secretary (Revenue) & Member Secretary of the SIT for appropriate action under the RTI Act...

7. The CPIO is directed to take appropriate action regarding the above in respect of this case **within 3 days of receipt of this order...**"

9.6) Subsequently, on 19/02/2016, this Complainant received a copy of the communication of number and date captioned at para #8 from the CPIO specified at para #4 above, stating *inter alia* as follows (**Annexe 5**):

"As per undersigned order dated 09.12.2015 passed under Section 7 of the RTI Act (Copy enclosed), point nos. 5 to 7 were transferred to CPIO, O/o Joint Secretary (Revenue) & Member Secretary of the SIT for disposal. However, as observed and directed at para 6.3 and 6.4 by First Appellate Authority (FAA) in order dated 12.02.2016 (copy enclosed), the RTI application of the applicant is hereby sent to CPIO, O/o Joint Secretary (Revenue) & Member Secretary of the SIT afresh for all the points of the application (Point Nos. 1 to 7) for reply as deemed appropriate...

9.7) More than 140 days have lapsed since the despatch of the communication of number and date captioned at para #8 above, to the 1st Respondent Public Authority. No response has been received by this Complainant from this Public Authority, till date.

10) Prayers or relief sought :

This Complainant humbly prays that this Hon'ble Commission be pleased to:

- 1) admit this complaint and inquire into the matters raised herein;
- 2) issue appropriate orders recognising the Respondent Public Authority as a "public authority" within the terms of Section 2(h) of the RTI Act;
- 3) direct the 1st Respondent Public Authority to appoint a Central Public Information Officer under Section 5(1), and a First Appellate Authority under Section 19(1) of the RTI Act for the purpose of receiving and disposing RTI applications and first appeals respectively;
- 4) direct the Respondent Public Authority to require the Central Public Information Officer, so appointed to make a decision regarding disclosure of all the information sought in the instant RTI application;
- 5) issues general directions to the 2nd Respondent Public Authority to issue an Office Memorandum to all Ministries and Departments under the Government of India requiring them to ensure compliance with all the provisions of the RTI Act by any public authority that is established or constituted after the commencement of the RTI Act, such as, appointment of CPIOs and FAAs, undertaking *suo motu* disclosure of information under Section 4(1) of the RTI

S.S. Mukatish Nayak

Act and voluntary disclosure of information as per Section 26(1)(c) of the RTI Act; and

- 6) such other orders, directions or recommendations as it may deem appropriate.

11) Grounds for the prayer or relief :

11.1) Grounds for condonation of delay in the submission of this complaint:

11.1.1) According to Section 18(1) of the RTI Act, any person may submit a complaint to this Hon'ble Commission for any of the reasons specified in that Section. However, unlike the time limits specified in Section 19 of the RTI Act for the purpose of submitting first and second appeals, there is no stipulation of the time limit within which a complaint may be submitted to this Hon'ble Commission. Further, nothing in the RTI Rules, 2012 notified by the 2nd Respondent Public Authority indicate such a time limit for the purpose of submitting complaints to this Hon'ble Commission.

11.1.2) Further, as the 1st Respondent Public Authority is a very busy institution tasked with the onerous burden of unearthing money unaccounted for by entities, this Complainant in good faith elected to wait for a reply to be received from the 1st Respondent Public Authority regarding the transfer of the instant RTI application to it. Further, as the RTI Act provided every public authority a period of 120 days to take steps to implement its provisions fully in 2005, this Complainant elected in good faith to allow the same time limit for the 1st Respondent Public Authority to respond to the RTI application transferred to it by the CPIO specified at para #3 above.

More than 120 days have passed since the despatch of the instant RTI application by the CPIO specified at para #3 to the 1st Respondent Public Authority. No response has been forthcoming from the 1st Respondent Public Authority. Therefore, this Complainant is not prepared to wait any further for a response from the CPIO of the 1st Respondent Public Authority and wishes to seek the intervention of this Hon'ble Commission. ***Hence the submission of this Complaint to this Hon'ble Commission with a prayer to condone the delay in submission for reasons cited above.***

11.2) Grounds for recognising the 1st Respondent Public Authority as a public authority under Section 2(h) of the RTI Act:

11.2.1) Section 2(h) of the RTI Act contains clearly defined criteria for the purpose of ascertaining whether an entity is a public authority or not for the purpose of implementing the provisions of the Act. Clause (d) of Section (h) which is of particular application in the case of the 1st Respondent Public Authority, reads as follows:

""public authority" means any authority or body or institution of self- government established or constituted--

XXXX

XXXX

XXXX

(d) by notification issued or order made by the appropriate Government,"

S. S. Venkatesh Nayak

Clause (h) makes it crystal clear that any body or authority established or constituted by a notification issued by the appropriate Government will be a "public authority" for the purpose of implementing the RTI Act.

11.2.2) The 1st Respondent Public Authority has been "constituted" by a notification of the Government of India vide notification of number- F. No. 11/2/2009-Ad. E.D. dated 29th May 2014 and published in the Gazette of India Extraordinary the same day (**Annexe 6**). Being a multi-member body comprising of a Chairman, a Vice Chairman and 10 other members, the 1st Respondent Public Authority clearly meets the both the criteria under Section 2(h)(d) of the RTI Act, namely, that it is a "body" for the purpose of that Section and that it has been constituted by the Central Government vide a notification. Further, the terms of reference of the 1st Respondent Public Authority clearly indicate that it is tasked with responsibilities and duties of investigation, initiation of proceedings, and prosecution, whether in the context of appropriate criminal or civil proceedings against certain individuals named in that said notification. The detailed terms of reference of the 1st Respondent Public Authority are extracted from the said notification below:

"(iii) It is also the responsibility of SIT to ensure that the matters are also investigated, proceedings initiated and prosecutions conducted with regard to criminality and/or unlawfulness of activities that may have been the source for such monies, as well as the criminal and/or unlawful means that are used to take such unaccounted monies out of and/or bring such monies back into the country, and use of such monies in India or abroad.

(iv) The Special Investigation Team shall also be charged with the responsibility of preparing a comprehensive action plan, including the creation of necessary institutional structures that can enable and strengthen the country's battle against generation of unaccounted monies, and their stashing away in foreign banks or in various forms domestically."

11.2.3) Further, the said notification requires, "all organs, agencies, departments and agents of the State, whether at the level of the Union of India, or the State Government, including but not limited to all statutorily formed individual bodies, and other constitutional bodies, extend all the cooperation necessary for the functioning of Special Investigation Team." (para #4). Further, according to the said notification the 1st Respondent Public Authority, "is also empowered to further investigate even where charge-sheets have been previously filed; and that the Special Investigation Team may register further cases, and conduct appropriate investigations and initiate proceedings, for the purpose of bringing back unaccounted monies unlawfully kept in bank accounts abroad." These extracts from the said notification make it amply clear that the 1st Respondent Public Authority is also an "authority" tasked with public functions wielding immense powers and performing onerous responsibilities. Therefore it is this Complainant's firm belief that the 1st Respondent Public Authority unequivocally satisfies the criteria laid down in Section 2(h) of the RTI Act for determining whether a body is a public authority for the purpose of implementing its provisions. This Complainant believes that the 1st Respondent Public Authority is both a "body and "an authority" constituted vide a notification of the Central Government.

However, despite meeting the criteria laid down in Section 2(h) of the RTI Act, the 1st Respondent Public Authority has not bothered to respond to the RTI application that stood transferred to it on 16/02/2016. This Complainant is aggrieved by this inaction of the 1st Respondent Public Authority. As Section 18(1)(f) of the RTI Act provides a ground for any

S. Shrikant Nayak

person to submit a complaint to this Hon'ble Commission in respect of requesting or obtaining access to records under this Act, this Complainant believes this is a fit case for this Hon'ble Commission to inquire into. **Hence the submission of this Complaint to this Hon'ble Commission.**

11.2.4) Further, this Complainant submits that the instant RTI application was submitted to the very postal address to which the CPIO specified at para #3 above transmitted the said RTI application on the directions of the First Appellate Authority specified at para #5 above. Yet, no response has been forthcoming from the 1st Respondent Public Authority. Despite making best efforts, this Complainant could not find an official Internet website for the 1st Respondent Public Authority. So this Complainant has no prior knowledge of any other contact details of the first appellate authority of the 1st Respondent Public Authority. Therefore this Complainant is unable to submit a first appeal against the deemed refusal of the CPIO of the 1st Respondent Public Authority under Section 19(1) of the RTI Act read with Section 7(2) of the RTI Act.

Further, submitting a 2nd appeal before this Hon'ble Commission against the order of the First Appellate Authority specified at para #5 above would have been futile as this Complainant is not aggrieved by the said decision of the First Appellate Authority. The said Appellate Authority has acted on the prayers of this Complainant in the first appeal, so this Complainant has no grievance or cause for action against the said CPIO or the First Appellate Authority. **In the absence of any appropriate remedy under Section 19 of the RTI Act, this Complainant is constrained to submit this Complaint before this Hon'ble Commission.**

11.2.5) Further, this Complainant is fully aware of the *ratio decidendi* contained in the judgement of the Hon'ble Supreme Court of India in the matter of *Chief Information Commr. & Anr. vs State of Manipur & Anr.* [AIR 2012 SC 864]. In this matter the Hon'ble Supreme Court was pleased to recognise the supervisory jurisdiction of this Hon'ble Commission under Section 18 of the RTI Act. Therefore this Complaint is not about seeking a direction to the 1st Respondent Public Authority for the disclosure of information requested in the instant RTI application. Instead this Complaint is being submitted to move this Hon'ble Commission for a direction to the 1st Respondent Public Authority to comply with all the applicable provisions of the RTI Act and make a decision on the information requested in the instant RTI application. The provisions relating to appeals under Section 19 of the RTI Act do not provide for any suitable remedy in this regard. **Hence the submission of this Complaint to this Hon'ble Commission.**

11.2.6) Further, according to Section 2(a) of the RTI Act, the Central of India is the "appropriate Government" for all public authorities established, constituted, owned, controlled or substantially financed by it. Further, it is common knowledge that the 2nd Respondent Public Authority is the nodal department for guiding the implementation of the provisions of the RTI Act in all public authorities under the Central Government. However there is no information in the public domain about the steps taken by the 2nd Respondent Public Authority to make the 1st Respondent Public Authority comply with the provisions of the RTI Act. No information is available in the public domain about the CPIO or the First Appellate Authority of the 1st Respondent Public Authority. Similarly, no information required to be disclosed *suo motu* under Section 4(1) of the RTI Act by every public authority is available in the public domain for the 1st Respondent Public Authority. Nor is the 1st

S. S. Subrahmanyam

Respondent Public Authority disclosing accurate information about its activities from time to time as is required under Section 26(1)(c) of the RTI Act. Having satisfied the criteria for a "public authority" under Section 2(h) of the RTI Act, the 1st Respondent Public Authority cannot indefinitely postpone compliance with the provisions of the RTI Act. Being an authority established to investigate non-compliance with the rule of law by individuals who stashed away black money, the 1st Respondent Public Authority must set an example by complying with all provisions of law as are applicable to it. This complaint is directly related to requesting and obtaining access to records from the 1st Respondent Public Authority which would not be possible unless the systems and procedures required to be set up under various provisions of the RTI Act are implemented by it. **Hence the submission of this Complaint to this Hon'ble Commission.**

11.2.7) Further, given the complexities of governance, it is highly likely that newer and newer public authorities would be established or constituted under the Central Government in future, for various purposes. The RTI Act is silent about the timelines that such new public authorities must observe to become fully compliant with the provisions of the RTI Act. Therefore there is a grey area in the RTI Act as regards the manner in which compliance by newly established or constituted public authorities must be ensured. As the Hon'ble Supreme Court has recognised this Hon'ble Commission's supervisory jurisdiction for ensuring compliance with the RTI Act under Section 18, this Complainant has elected to move this complaint for appropriate directions to be issued to the 2nd Respondent Public Authority to require all Ministries and Departments to ensure compliance of newly established or constituted public authorities with the provisions of the RTI Act. As such a direction cannot be issued in the context of a second appeal which shall lie against a public authority that is already implementing the provisions of the RTI Act, this Complainant has no alternative but to approach this Hon'ble Commission under Section 18(1)(f) of the Act. **Hence the submission of this Complaint to this Hon'ble Commission.**

12) I hereby verify that the aforementioned facts are true to the best of my knowledge. I also declare that I have authenticated the Annexures to this complaint. I also affirm that I have transmitted a copy of this complaint along with Annexures to the Respondent Public Authorities.

Signature of the Complainant:

S. S. Venkatesh Nayak
(Venkatesh Nayak) 11/7/16

SP HAUZ KHAS <110016>
EID1.0:3/5/5/7/2 CN
Counter No:2,UP-Code:81
To:CP10,ND-1
NEW DELHI, PIN:110001
From:VENKATESH NAYAK, ND-16
Wt:23grams,
Amt:17.00,17/07/2016,11:27
Fax:1181.2.00<<track on www.indiapost.gov.in>

SP HAUZ KHAS <110016>
EID1.0:3/5/5/7/2 CN
Counter No:2,UP-Code:81
To:REGISTRAR,ND-1
R K PURAM (MAIN), PIN:110054
From:VENKATESH NAYAK, ND-16
Wt:23grams,
Amt:29.00,17/07/2016,11:27
Fax:1181.4.00<<track on www.indiapost.gov.in>

SP HAUZ KHAS <110016>
EID1.0:3/5/5/7/2 CN
Counter No:2,UP-Code:81
To:SECTY TO THE GOV,ND-1
NEW DELHI, PIN:110001
From:VENKATESH NAYAK, ND-16
Wt:23grams,
Amt:29.00,17/07/2016,11:27
Fax:1181.4.00<<track on www.indiapost.gov.in>

आदि का निर्धारण उच्चतम न्यायालय के आदेशानुसार किया जाएगा। राजस्व विभाग, वित्त मंत्रालय, भारत सरकार विशेष जांच टीम के उचित एवं प्रभावी कार्यप्रणाली के लिए समुचित अवसंरचना एवं अन्य सुविधाओं का गठन करने के लिए उत्तरदायी होगा।

8. संयुक्त सचिव (राजस्व), राजस्व विभाग, वित्त मंत्रालय विशेष जांच टीम के सदस्य सचिव होंगे।
9. यह अधिसूचना उच्चतम न्यायालय में लंबित पुनरीक्षण याचिका के परिणाम के अध्वधीन है।

एम. एल. मीना, संयुक्त सचिव (राजस्व)

MINISTRY OF FINANCE

(Department of Revenue)

NOTIFICATION

New Delhi, the 29th May, 2014

F. No. 11/2/2009-Ad. E.D.—In pursuance of the Order dated 4.7.2011 of Hon'ble Supreme Court of India passed in Writ Petition (Civil) No. 176 of 2009, Central Government in the Ministry of Finance, Department of Revenue hereby constitutes the Special Investigation Team, comprising of the following :-

- a) Hon'ble Mr. Justice M.B. Shah, former Judge of Supreme Court — Chairman
 - b) Hon'ble Mr. Justice Arijit Pasayat former Judge of Supreme Court — Vice Chairman
 - c) Revenue Secretary — Member
 - d) Deputy Governor, Reserve Bank of India — Member
 - e) Director (IB) — Member
 - f) Director, Enforcement Directorate — Member;
 - g) Director, CBI — Member;
 - h) Chairman, CBDT — Member ;
 - i) Director General, Narcotics Control Bureau—Member ;
 - j) Director General, Revenue Intelligence — Member;
 - k) Director, Financial Intelligence Unit — Member;
 - l) Joint Secretary (FT & TR-I), CBDT — Member and
 - m) Director, Research and Analysis Wing — Member.
2. The terms of references of the Special Investigation Team will be as per order dated 04.07.2011 of Hon'ble Supreme Court and includes as under:-
- (i) The Special Investigation Team shall function under the guidance and direction of Chairman and Vice Chairman.
 - (ii) The said Special Investigation Team shall be charged with the responsibilities and duties of investigation, initiation of proceedings, and prosecution, whether in the context of appropriate criminal or civil proceedings of :-
 - a) all issues relating to the matters concerning and arising from unaccounted monies of Hassan Ali Khan and the Tapurias;
 - b) all other investigations already commenced and are pending, or awaiting to be initiated, with respect to any other known instances of the stashing of unaccounted monies in foreign bank accounts by Indians or other entities operating in India; and

True copy
S.S. Venkatesh Nayak

(27)

- c) all other matters with respect to unaccounted monies being stashed in foreign banks by Indians or other entities operating in India that may arise in the course of such investigations and proceedings.
- (iii) It is also the responsibility of SIT to ensure that the matters are also investigated, proceedings initiated and prosecutions conducted with regard to criminality and/or unlawfulness of activities that may have been the source for such monies, as well as the criminal and/or unlawful means that are used to take such unaccounted monies out of and/or bring such monies back into the country, and use of such monies in India or abroad.
- (iv) The Special Investigation Team shall also be charged with the responsibility of preparing a comprehensive action plan, including the creation of necessary institutional structures that can enable and strengthen the country's battle against generation of unaccounted monies, and their stashing away in foreign banks or in various forms domestically.
3. The said Special Investigation Team should be responsible to the Hon'ble Supreme Court and that it shall be charged with the duty to keep Supreme Court informed of all major developments by filing of periodic status reports and following of any special orders that Supreme Court may issue from time to time;
4. All organs, agencies, departments and agents of the State, whether at the level of the Union of India, or the State Government, including but not limited to all statutorily formed individual bodies, and other constitutional bodies, extend all the cooperation necessary for the functioning of Special Investigation Team.
5. The Union of India and where needed the State Governments will facilitate the conduct of the investigations, in their fullest measure, by the Special Investigation Team and functioning, by extending all the necessary financial, material, legal, diplomatic and intelligence resources, whether such investigations or portions of such investigations occur inside the country or abroad.
6. The Special Investigation Team also empowered to further investigate even where charge-sheets have been previously filed; and that the Special Investigation Team may register further cases, and conduct appropriate investigations and initiate proceedings, for the purpose of bringing back unaccounted monies unlawfully kept in bank accounts abroad.
7. Remuneration, allowances, facilities etc. for Hon'ble Mr. Justice M.B. Shah and Hon'ble Justice Arijit Pasayat, appointed as Chairman and Vice Chairman to supervise the Special Investigation Team shall be as per judgement dated 4.7.2011. The Department of Revenue, Ministry of Finance, Government of India will be responsible for creating the appropriate infrastructure and other facilities for proper and effective functioning of the Special Investigation Team.
8. JS(R) Department of Revenue, Ministry of Finance would be Member-Secretary of SIT.
9. This notification is subject to the outcome of the Review Petition Pending in the Supreme Court.

M. L. MEENA, Jt. Secy. (Revenue)

True copy
S. S. Venkatesh Nayak

Government of India
Ministry of Finance
Department of Revenue

Room NO. 55, North Block,
New Delhi, the 11th August 2016

To

Sh. Venkatesh Nayak
55A, 3rd Floor, Siddharth Chambers-I
Kalu Sarai, New Delhi-110016

Sub:- Application received under the RTI Act 2005

Sir,

I am to refer to the RTI application dated 04.11.2015 which has been transferred by the CPIO, CBDT vide O.M. No. 415/92/2015-IT(Inv.I) dated 12.02.2016 for providing information with reference to the O.M. of the RTI application dated 04.11.2015 and to say that the Special Investigation Team has been constituted vide notification dated 29.05.2014. A copy of the said notification inter-alia contains the terms of reference of the SIT and other details is enclosed. You are informed that the SIT has been submitting its report from time to time to the Hon. Supreme Court and it contains inputs from various investigating agencies. Keeping in view the nature of the information contained in these Reports, it is regretted that the information sought cannot be provided since the same is exempted from disclosure under section 8(1)(h) of the RTI Act.

2. Appeal if any many be filed before the First Appellate Authority within thirty days from the date of the receipt of this reply. The name and address of the Appellate Authority are as under:-

Sh. Ramesh Chander,
Director(Coordination)
Room No. 47, North Block
New Delhi

Yours faithfully,


(Santosh Kumar)

CPIO & Under Secretary
Ad.ED

Copy to:-

Shri Mritunjaya Sharma, DCIT(OSD)(Inv.I) & CPIO , CBDT (with reference to your OM dated 16.02.2016)



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग I—खण्ड 1

PART I—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 131]

नई दिल्ली, बुधवार, मई 29, 2014/चैत्र 8, 1936

No. 131]

NEW DELHI, THURSDAY, MAY 29, 2014/JYAISTHA 8, 1936

वित्त मंत्रालय

(राजस्व विभाग)

अधिसूचना

नई दिल्ली, 29 मई, 2014

फा. सं. 11/2/2009-एडी-ईडी.—भारत के माननीय उच्चतम न्यायालय द्वारा रिट याचिका (सिविल) संख्या 2009 की 176 में पारित दिनांक 4.7.2011 के आदेश के अनुसरण में केंद्र सरकार वित्त मंत्रालय, राजस्व विभाग में एक विशेष जांच टीम गठित करती है, जिसमें निम्नलिखित शामिल होंगे :—

- क) माननीय न्यायाधीश श्री एम. बी. शाह, पूर्व न्यायाधीश, उच्चतम न्यायालय—अध्यक्ष
- ख) माननीय न्यायाधीश श्री अरिजीत पसायत, पूर्व न्यायाधीश, उच्चतम न्यायालय—उपाध्यक्ष
- ग) सचिव, राजस्व विभाग—सदस्य
- घ) डिप्टी गवर्नर, भारतीय रिजर्व बैंक—सदस्य
- (ङ.) निदेशक, (आईबी)—सदस्य
- च) निदेशक, प्रवर्तन निदेशालय—सदस्य
- छ) निदेशक, सीबीआई—सदस्य
- ज) अध्यक्ष, सीबीडीटी—सदस्य
- झ) महानिदेशक, स्वापक नियंत्रण ब्यूरो—सदस्य
- ञ) महानिदेशक राजस्व आसूचना—सदस्य
- ट) निदेशक, वित्तीय आसूचना एकक—सदस्य

- ठ) संयुक्त सचिव (एफटी एंड टीआर-1) सीबीडीटी—सदस्य तथा
 ड) निदेशक, अनुसंधान एवं विश्लेषण विंग—सदस्य
2. विशेष जांच टीम के विचारार्थ विषय माननीय उच्चतम न्यायालय के दिनांक 4.7.2011 के आदेश के अनुसार होंगे और इनमें निम्नलिखित शामिल हैं :—
- (i) विशेष जांच टीम अध्यक्ष तथा उपाध्यक्ष के मार्गदर्शन एवं निर्देश के अधीन कार्य करेगी।
- (ii) उक्त विशेष जांच टीम को जांच, कार्यवाहियों को शुरू करने तथा अभियोजन, चाहे वह निम्नलिखित के मामलों में समुचित अपराधिक मामला हो अथवा सिविल कार्यवाहियां हों, का उत्तरदायित्व एवं कर्तव्य सौंपा जाएगा :—
- (क) हसन अली खां तथा तापुरिया के गैर लेखागत धनराशि से संबंधित तथा उससे उद्भूत होने वाले मामलों से संबंधित सभी मामले ;
- (ख) भारतीयों अथवा भारत में कार्य करने वाली अन्य संस्थाओं द्वारा विदेशी बैंकों के खाते में गैर लेखागत धनराशि रखने के अन्य ऐसे मामले, जो जानकारी में हैं, के संबंध में ऐसी सभी जांच जो पहले ही आरम्भ कर दी गई हैं तथा लम्बित है, अथवा जांच आरम्भ करने की प्रक्रिया में हैं; तथा
- (ग) भारतीयों अथवा भारत में कार्यरत अन्य संस्थाओं द्वारा विदेशी बैंकों में गैर लेखागत धनराशि रखने से संबंधित ऐसे अन्य मामले जो ऐसी जांच तथा कार्यवाही के दौरान प्रकट हो सकते हैं।
- (iii) विशेष जांच टीम की यह सुनिश्चित करने की जिम्मेवारी भी होगी कि वह ऐसी धनराशि के स्रोतों के संबंध में आपराधिक तथा/अथवा गैर कानूनी गतिविधियों के संबंध में तथा ऐसी गैर लेखागत धनराशि को देश में से बाहर ले जाने तथा देश के भीतर लाने के लिए प्रयुक्त आपराधिक तथा/अथवा गैर कानूनी तरीकों के बारे में भी जांच करे तथा कार्यवाही आरम्भ करें तथा ऐसे मामलों में अभियोजन की कार्रवाई करे।
- (iv) विशेष जांच टीम को यह दायित्व भी सौंपा गया है कि वह ऐसी अपेक्षित संस्थागत अबसंरचना के सृजन सहित एक व्यापक कार्यवाही योजना भी बनाएगा जिससे गैर कानूनी धनराशि के सृजन तथा उसका विदेशी बैंकों अथवा विभिन्न घरेलू मंचों पर रखे जाने के विरुद्ध संघर्ष की प्रक्रिया को सुदृढ़ बनाए।
3. विशेष जांच टीम उच्चतम न्यायालय के प्रति जिम्मेवार होगा तथा उसे उच्चतम न्यायालय द्वारा समय-समय पर जारी किसी विशेष आदेश में उच्चतम न्यायालय को सभी प्रमुख नए तथ्यों के संबंध में जानकारी प्रदान करता रहेगा।
4. सांविधिक रूप से गठित एकल निकायों और अन्य संवैधानिक निकायों सहित भारत संघ अथवा राज्य सरकार के स्तर के सभी संगठन, अभिकरण, विभाग और राज्य के अभिकारक परंतु यह इन तक ही सीमित नहीं हो, विशेष जांच टीम के लिए आवश्यक सहयोग प्रदान करेंगे।
5. भारत संघ और जहां कहीं आवश्यक हो राज्य सरकारें, विशेष जांच टीम द्वारा की जाने वाली जांच के संचालन को आवश्यक वित्तीय, भौतिक, कानूनी, राजनयिक और आसूचना संबंधी संसाधन प्रदान करके पूर्ण रूप से सुकर बनाएंगे चाहे इस प्रकार की जांच अथवा इस प्रकार की जांचों का कोई भाग भारत के अंदर या विदेश में किया जाना हो।
6. विशेष जांच टीम को उन मामलों में भी जांच करने का अधिकार है जहां आरोप पत्र पहले ही दायर कर दिए गए हैं; और विशेष जांच टीम और आगे के मामलों को दर्ज कर सकती है तथा समुचित जांच-पड़ताल कर सकती है तथा विदेश के बैंक खातों में गैर-कानूनी ढंग से रखे गए बिना लेखे के धन को वापस लाने के उद्देश्य से कार्यवाहियां शुरू कर सकती है।
7. माननीय न्यायाधीश श्री एम. बी. शाह तथा माननीय न्यायाधीश अरिजीत पसायत, जिन्हें विशेष जांच टीम की निगरानी के लिए अध्यक्ष तथा उपाध्यक्ष के रूप में नियुक्त किया गया है, के पारिश्रमिक, भत्ते, सुविधाओं

आदि का निर्धारण उच्चतम न्यायालय के आदेशानुसार किया जाएगा। राजस्व विभाग, वित्त मंत्रालय, भारत सरकार विशेष जांच टीम के उचित एवं प्रभावी कार्यप्रणाली के लिए समुचित अवसंरचना एवं अन्य सुविधाओं का गठन करने के लिए उत्तरदायी होगा।

8. संयुक्त सचिव (राजस्व), राजस्व विभाग, वित्त मंत्रालय विशेष जांच टीम के सदस्य सचिव होंगे।
9. यह अधिसूचना उच्चतम न्यायालय में लंबित पुनरीक्षण याचिका के परिणाम के अध्यक्षीन है।

एम. एल. मीना, संयुक्त सचिव (राजस्व)

MINISTRY OF FINANCE

(Department of Revenue)

NOTIFICATION

New Delhi, the 29th May, 2014

F. No. 11/2/2009-Ad. E.D.—In pursuance of the Order dated 4.7.2011 of Hon'ble Supreme Court of India passed in Writ Petition (Civil) No. 176 of 2009, Central Government in the Ministry of Finance, Department of Revenue hereby constitutes the Special Investigation Team, comprising of the following :-

- a) Hon'ble Mr. Justice M.B. Shah, former Judge of Supreme Court — Chairman
- b) Hon'ble Mr. Justice Arijit Pasayat former Judge of Supreme Court — Vice Chairman
- c) Revenue Secretary — Member
- d) Deputy Governor, Reserve Bank of India — Member
- e) Director (IB) — Member
- f) Director, Enforcement Directorate — Member;
- g) Director, CBI — Member;
- h) Chairman, CBDT — Member ;
- i) Director General, Narcotics Control Bureau—Member ;
- j) Director General, Revenue Intelligence — Member;
- k) Director, Financial Intelligence Unit — Member;
- l) Joint Secretary (FT & TR-I), CBDT — Member and
- m) Director, Research and Analysis Wing — Member.

2. The terms of references of the Special Investigation Team will be as per order dated 04.07.2011 of Hon'ble Supreme Court and includes as under:-

- (i) The Special Investigation Team shall function under the guidance and direction of Chairman and Vice Chairman.
- (ii) The said Special Investigation Team shall be charged with the responsibilities and duties of investigation, initiation of proceedings, and prosecution, whether in the context of appropriate criminal or civil proceedings of :-
 - a) all issues relating to the matters concerning and arising from unaccounted monies of Hassan Ali Khan and the Tapurias;
 - b) all other investigations already commenced and are pending, or awaiting to be initiated, with respect to any other known instances of the stashing of unaccounted monies in foreign bank accounts by Indians or other entities operating in India; and

- c) all other matters with respect to unaccounted monies being stashed in foreign banks by Indians or other entities operating in India that may arise in the course of such investigations and proceedings.
- (iii) It is also the responsibility of SIT to ensure that the matters are also investigated, proceedings initiated and prosecutions conducted with regard to criminality and/or unlawfulness of activities that may have been the source for such monies, as well as the criminal and/or unlawful means that are used to take such unaccounted monies out of and/or bring such monies back into the country, and use of such monies in India or abroad.
- (iv) The Special Investigation Team shall also be charged with the responsibility of preparing a comprehensive action plan, including the creation of necessary institutional structures that can enable and strengthen the country's battle against generation of unaccounted monies, and their stashing away in foreign banks or in various forms domestically.
3. The said Special Investigation Team should be responsible to the Hon'ble Supreme Court and that it shall be charged with the duty to keep Supreme Court informed of all major developments by filing of periodic status reports and following of any special orders that Supreme Court may issue from time to time;
4. All organs, agencies, departments and agents of the State, whether at the level of the Union of India, or the State Government, including but not limited to all statutorily formed individual bodies, and other constitutional bodies, extend all the cooperation necessary for the functioning of Special Investigation Team.
5. The Union of India and where needed the State Governments will facilitate the conduct of the investigations, in their fullest measure, by the Special Investigation Team and functioning, by extending all the necessary financial, material, legal, diplomatic and intelligence resources, whether such investigations or portions of such investigations occur inside the country or abroad.
6. The Special Investigation Team also empowered to further investigate even where charge-sheets have been previously filed; and that the Special Investigation Team may register further cases, and conduct appropriate investigations and initiate proceedings, for the purpose of bringing back unaccounted monies unlawfully kept in bank accounts abroad.
7. Remuneration, allowances, facilities etc. for Hon'ble Mr. Justice M.B. Shah and Hon'ble Justice Arijit Pasayat, appointed as Chairman and Vice Chairman to supervise the Special Investigation Team shall be as per judgement dated 4.7.2011. The Department of Revenue, Ministry of Finance, Government of India will be responsible for creating the appropriate infrastructure and other facilities for proper and effective functioning of the Special Investigation Team.
8. JS(R) Department of Revenue, Ministry of Finance would be Member-Secretary of SIT.
9. This notification is subject to the outcome of the Review Petition Pending in the Supreme Court.

M. L. MEENA, Jt. Secy. (Revenue)

F.No.415/92/2015-IT(Inv.I)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

Room No.269, North Block,
New Delhi, dated 27 September, 2017

To

Shri K.L. Das
Dy. Registrar,
Central Information Commission,
Room No.329, 2nd Floor,
August Kranti Bhavan, Bhikaji Cama Place,
New Delhi – 110066.

**Subject: Notice of Hearing for Appeal/Complaint in the case of Shri Venkatesh Nayak,
New Delhi (Date of Hearing: 06/10/2016)**

Sir,

Kind reference is invited to Central Information Commission's notice of hearing File No.CIC/DOREV/C/2016/294561 dated 19.09.2017 on the above subject.

2. Vide para 4 of the above notice, it is stated that all the parties may submit their written submissions to the Commissioner at least 7 days before the date of hearing. In this regard, submissions of Investigation Division of CBDT are as under:-

- (i) Kind reference is invited to Para 11.2.2 of the complaint wherein it has been mentioned that 1st Respondent Public Authority was constituted by a notification of Government of India vide notification no. F.No. 11/2/2009-Ad.E.D. dated 29th May 2014. A copy of the notification is enclosed for your reference. It is apparent that the 1st Respondent Public Authority as referred in the complaint is CPIO, O/o Member Secretary, Special Investigation Team on Black Money, Department of Revenue, Room No.77A, North Block, New Delhi.
- (ii) Moreover, 2nd Respondent Public Authority as mentioned in Para 6 (page 3) of the complaint is Secretary, Department of Personnel and Training, North Block, New Delhi.
- (iii) Kind reference is also invited to para 10 of the complaint which contains prayer or relief sought by the complainant wherein it has been prayed that suitable directions may be issued to 1st Respondent Public Authority and 2nd respondent Public Authority.

In this context, it is submitted that this office has not been made a respondent before Hon'ble CIC in the said complaint filed by the complainant. Further, in the complaint, this office has been referred as merely the CPIO replying to the RTI application filed

by the complainant (referred in Para-3 of the complaint) and subsequently forwarding the RTI to 1st Respondent Public Authority, *de novo*, as per the directions received from First Appellate Authority. (Copy enclosed)

3. The order issued by this office u/s 7 of RTI Act, 2005 on 09/12/2015 and subsequent order on 16/02/2016 transferring the RTI to CPIO, O/o Joint Secretary(Revenue) and Member Secretary to SIT, Department of Revenue, Ministry of Finance (1st Respondent Public Authority as per the complaint) is enclosed for kind reference.

4. In view of the above, it is requested that in the notice of hearing for appeal/complaint dated 19.09.2017, this office which has been marked as 1st Respondent Public Authority, may be omitted as no cause of action arises on the part of this office since the office is not a respondent party to the complaint filed by the complainant before Hon'ble CIC in the instant case.

Yours faithfully,

Encl: A/a

(Gaurav Pundir)
Under Secretary (Inv.I)
Tele.:011-23095464
Fax : 011-23092802
E-mail : usinv1-cbdt@nic.in

Copy for information to:

✓ Shri Venkatesh Nayak,
55A, III Floor, Siddharth Chambers-1,
Kalu Sarai, New Delhi – 110016

Gaurav
27/09/17
(Gaurav Pundir)
Under Secretary(Inv.I)

FTS No. 591527/2017-RTI Cell

Government of India
Ministry of Finance
Department of Revenue

North Block, New Delhi

Dated 24th September, 2017

OFFICE MEMORANDUM

Subject : CIC's Notice of Hearing No. CIC/DOREV/C/2016/294561 dated 19.9.2017 in the Second Appeal of Shri Venkatesh Nayak – reg

The undersigned is directed to enclose a copy of CIC's Notice of Hearing No. CIC/DOREV/C/2016/294561 dated 19.9.2017 in the Second Appeal of Shri Venkatesh Nayak. The Hearing is scheduled on 6.10.2017 at 12:30 am at CIC. Since the information sought vide RTI application dated 04.11.2015 also pertains to the Special Investigation Team on Black Money, the CIC's Notice of Hearing is forwarded herewith for further necessary action. It is requested that the appropriate action may be taken to attend the hearing on 06.10.2017.

(S. Bhowmick)
CPIO & Under Secretary (RTI)
Tel : 23095368

To

CPIO & Under Secretary (Ad.Ed),
Department of Revenue,
North Block,
New Delhi – 110 001.

Copy to :-

1. Shri Venkatesh Nayak, 55A, III Floor, Siddharth Chambers – 1, Kalu Sarai, New Delhi – 110 016.
2. Shri K.L.Das, Deputy Registrar, CIC, Room No. 329, 2nd Floor, August Kranti Bhawan, Bhikaji Cama Place, New Delhi 110 066 w.r.t. case file no. CIC/DOREV/C/2016/294561.

F.No. R-20011/182/2016-Ad.ED
Government of India
Ministry of Finance
(Department of Revenue)

....

Room No.55, North Block,
New Delhi, the Oct. 4th, 2017.

To

Shri Venkatesh Nayak,
55A, 3rd Floor, Siddharth Chambers – 1,
Kalu Sarai, New Delhi – 110016.

Subject:- Application received under RTI Act, 2005.

Sir,

I am to refer to your RTI application dated 04.11.2015, received from RTI Cell vide communication No. 234525/2015-RTI CELL dated 12.11.2015 and to state that the reply for the said RTI application has already been given vide Department's letter No. R-20011/182/2016-Ad.ED dated 11.08.2016. However, a copy of the same is enclosed herewith.

Yours faithfully

Encl. as above


(Santosh Kumar)

CPIO & Under Secretary, Ad.ED
Tele:- 23095377



Central Information Commission
Room No.329, 2nd Floor, August
Kranti Bhavan, Bhikaji Cama Place
New Delhi - 110066
011-26182598 & kl.das@nic.in

File No. CIC/DOREV/C/2016/294561

DATE :19-09-2017

NOTICE OF HEARING FOR APPEAL/COMPLAINT

Appellant(s)/Complainant(s):		Respondent(s):	
✓ VENKATESH NAYAK 55A III FLOOR SIDDHARTH CHAMBERS-1 KALU SARAI NEW DELHI 110016		CPIO : 1. CPIO CPIO & DCIT (OSD)(Inv.1), Ministry of Finance, Department of Revenue, CBDT, North Block, New Delhi (Ref. No. No. 415/92/2015-IT(INV.I) dt. 09/12/2015)	
		2. CPIO CPIO, C/o Member Secretary, Sepcial Investigation Team on Black Money, Department of Revenue, Ministry of Finance, Department of Revenue, Room No. 77A, North Block, New Delhi - 110001	
Date of RTI	Date of reply,if any,of CPIO	Date of 1st Appeal made,if any	Date of order,if any,of First AA
04-11-2015	09-12-2015	13-01-2016	12-02-2016

1. Take notice that the above appeal/complaint in respect of RTI application dated 04-11-2015 filed by the appellant/complainant has been listed for hearing before **Hon'ble Information Commissioner Mr. Bimal Julka** at Venue **Room No.329, 2nd Floor, August Kranti Bhavan, Bhikaji Cama Place New Delhi - 110066** on **06-10-2017 at 12:30 PM** .

2. The appellant/complainant may present his/her case(s) in person or through his/her duly authorized representative.

3. The public authority may authorize any representative or any of its officers to present its case(s).

4. All the parties may submit their written submission,if any,to the Commission **at least 7 days** before the date of hearing.A copy of the same may be served upon opposite party(ies).

5. The officer(s) of the public authority and the appellant/complainant or the authorized representative(s) is advised to carry a "proof of identity".

6. Take notice that in default of your appearance on the time and date mentioned aforesaid, the case shall be heard and decided in your absence.
7. The parties concerned should reach the venue at least 30 minutes before the scheduled time of hearing. They are also requested to intimate their telephone/mobile numbers and email address to the undersigned.
8. The Parties may note that only one person shall be allowed to assist them during the hearing of the case.
9. Please note that **no adjournment** due to absence will be given in any circumstances.

By order of the Commission.


K. Das
Dy. Registrar

Reference number of CPIO Reply(if any) :-

To

1. CPIO, Public Authority
2. Appellant/Complainant.

