

IMMEDIATE

File No.CIC/4/2016-Rgr.(Vol. II)
CENTRAL INFORMATION COMMISSION
(Room No. 185, Ground Floor, August Kranti Bhawan,
New Delhi-110066)

(56)

Dated the 29th April, 2016

To

The Chairman,
Central Board of Direct Taxes,
North Block,
New Delhi-110001

Sub: Non-compliance of the orders passed by the Central Information Commission.

Sir,

I am forwarding herewith a copy of letter dated 12.04.2016 along with enclosures addressed to the Chief Information Commissioner by Shri Venkatesh Nayak, Commonwealth Human Rights Initiative (CHRI), 55A, 3rd Floor, Siddharth Chambers-1, Kalu Sarai, New Delhi-110066, which is self-explanatory.

2. In the communication, Shri Nayak has, inter alia, stated that (a) orders passed by this Commission are not being complied with by the Income Tax Department. Reference has been made to some orders passed by this Commission; (b) non-compliance of orders passed this Commission by one public authority will only embolden others to act in a similar manner, which will damage the effectiveness and image of this Commission; (c) he is assisting the appellant in case No.CIC/RM/A/2014/004628 - Neeti Biyani vs CBDT; and (d) he would be willing to submit a formal complaint to this Commission under section 18 (1) (f) of the RTI Act.

3. It is requested that suitable instructions may be issued to all the concerned authorities/officers to ensure that the orders passed by this Commission in appeals and complaints under the RTI Act are invariably complied with within the time fixed by this Commission.

4. Action taken in the matter may kindly be communicated to this Commission.

Yours faithfully,



(Dr. M.K. Sharma)
Registrar

Encl: as above.

C. I. C./के.सू.आ.
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(61)

FTS -300294447/2016
Government of India
Ministry of Finance
Department of Revenue
[Central Board of Direct Taxes]

New Delhi, 17th May, 2016

All Pr.CCsIT / Pr. DGsIT

Sir / Madam,

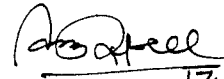
**Sub: Non-compliance of the orders passed by the Central Information
Commission –reg.**

1. Kindly refer to the subject cited above.

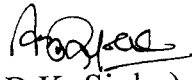
2. It has been brought to the notice of the Board by Registrar, Central Information Commission, New Delhi that in certain cases orders passed by the CIC are not being complied with by the Income Tax Department. Reference has been made to some orders passed by CIC in this regard. The CIC have raised a concern that such non-compliance of orders passed by the Commission by one public authority will only embolden others to act in a similar manner, which will damage the effectiveness and image of the Commission.

3. In view of the fact that the orders of CIC are binding under the RTI Act, 2005 unless stayed or reversed by higher courts, I am directed to convey that suitable instructions may be issued to all the concerned authorities / officers/ CPIOs to ensure that the orders passed by CIC in appeals and complaints under the RTI Act, 2005 are invariably complied with within the time fixed by the Commission, unless they are stayed or reversed by higher courts. Any deviation will be viewed adversely.

4. This issues with the approval of Chairman, CBDT


(Dr. B.K. Sinha) 17.5.16
of CIT(C&S), CBDT

Copy to: All JSs and Commissioners posted in CBDT for ensuring similar compliance to the orders of the CIC by CPIOs functioning within their respective divisions.


(Dr. B.K. Sinha)
of CIT(C&S), CBDT

Date: 19 February, 2016

(sent via email)

To,
Shri R K Mathur
Chief Information Commissioner
Central Information Commission
2nd Floor, 'B' Wing
August Kranti Bhavan
New Delhi- 110 066

Dear sir,

Sub: Repeated non-compliance of the Income Tax Department with the orders of the CIC

While assisting an RTI appellant before a single Bench of the CIC last week, I learnt of a Full Bench (FB) order of your Commission issued in March 2010 in a second appeal matter filed by one Shri Rakesh Agarwal against Nyayahoomi (File No. CIC/LS/A/2009/00190). The decision is the 1st attachment to this email. *Inter alia*, the FB directed the Income Tax Department in this case as follows:

"Needless to say, avowed purpose for which these institutions/entities come into existence is charity. Charity and secrecy are contradiction in terms. Any charitable institution should have no secrets and should be open to public for all purposes, including its finances. In other words, in our opinion, it will be in the larger public interest if the identity of the charitable trusts/institutions/entities which are granted exemption from income tax under the statutory provisions are placed in the public domain. Hence, in exercise of powers under section 25(5) of the RTI Act, we hereby recommend that the identity of the charitable trusts/institutions/entities which have been granted exemption from income tax under section 10 & under section 11/12 of the Income Tax Act is placed in public domain by way of suo-motu disclosure by the CBDT in terms of section 4(1)(b) r/w section 4(2) of the RTI Act. However, given the magnitude of the work involved, the plea of the officers of CBDT for grant of reasonable time in this regard cannot be disregarded. We think that time period of 08 months will be reasonable. The Chairman, CBDT, will send a compliance report to the Commission after the expiry of 08 months."

In April 2013, the issue of non-compliance with the aforementioned order was brought to the notice of your Commission. A single Bench issued the following direction in that case:

"7. Keeping in view the above decision, the Commission directs Ms Deepshikha Sharma, PIO/Deputy Secretary, ITAI, CBDT, New Delhi, to ascertain the factual position about the implementation of the above decision and send a report to the Commission within four weeks of receipt of this order." (A web copy of the order is in the 2nd attachment).

Later in December 2015 another single Bench of your Commission took notice of the non-compliance of the Income Tax department regarding the Full Bench direction of March 2010 and directed the appellant as follows:

"As stated by the CPIO he should write to the CIT (Exemption) Chandigarh for compliance of CIC order dated 09/03/2010 [file no. CIC/LS/A/2009/00190- R. Agarwal vs Income Tax Department] at the earliest." (A web copy of the order of the CIC is in the 3rd attachment)

More recently, in January this year yet another single Bench of your Commission directed as follows:

"Accordingly, the CPIOs are directed to provide list of charitable trusts/institutions/entities which have been granted exemption from income tax under Section 10 & Section 11/12 of the Income Tax Act for the years 2011-12, 2012-13 and 2013-14, to the appellant within 30 days from the date of receipt of this order." (A web copy of the order of the CIC is in the 4th attachment)

In the most recent order cited above, the Hon'ble Commissioner has not even taken notice of the continued non-compliance by the Income Tax Department.

Such non-compliance by one public authority will only embolden others to act in a similar manner. Ultimately this will be damaging to the effectiveness and the image of your Commission.

I urge you to take this issue up within your Commission urgently and direct the Registry attached to each Bench to identify similar cases of non-compliance by public authorities and write to the highest decision-makers in those bodies reminding them of their duty to comply with your Commission's orders unless they elect to challenge the same before the appropriate courts. I also urge you to take immediate action to seek compliance from the Income Tax Department vis-a-vis the 201 FB decision.

I will be happy to submit a formal complaint under Section 18(1)(f) of *The Right to Information Act, 2005* if you think that will be necessary for your Commission to take up this matter officially. I am not a party to any of these cases cited above. However, I am assisting the appellant in the matter of *Neeti Biyani vs CPIO, CBDT* (File No. CIC/RM/A/2014/004628) which involves transparency of information held by the Income Tax Department relating to Electoral Trusts. Kindly look into the matter urgently as this issue has been lingering since 2010.

Thanking you,
Yours sincerely,
Venkatesh Nayak
Commonwealth Human Rights Initiative
#55A, 3rd Floor
Siddharth Chambers-1,
Kalu Sarai
New Delhi- 110 066

4 attachments

CICCharitableTrustsNyayabhoomicaseFBMar10. Pdf 52K

CICCharitableTrustsSKGuptanoncompliancecaseApr13. Pdf 68K

CICCharitableTrustsPCBalinoncompliancecaseDec15. Pdf 48K

CICCharitableTrustsPCBalinoncompliancecaseDec15. Pdf 48K

CENTRAL INFORMATION COMMISSION

Room No. 308, B-Wing, August Kranti Bhawan, Bhikaji Cama Place, New Delhi-110066

File No.CIC/LS/A/2009/00190

Dated : 9.3.2010

This order will dispose of the matter cited above. It may be recalled that a Full Bench of the Commission had heard this matter on 3rd February, 2010. The proceedings of the day are extracted below :-

“The brief facts leading to the present appeal are that Shri Rakesh Aggarwal had filed Appeal No. CIC/LS/A/2009/00190 against the decisions of CPIO and the FAA denying him information regarding a Society called Nyayabhoomi. The bench of Shri M.L. Sharma, Information Commissioner, held a number of hearings in the matter on 25.2.2009, 20.8.2009, 15.4.2009, 15.7.2009 & 20.8.2009. In the hearing held on 20.8.2009, appellant Shri Rakesh Aggarwal had requested the Commission to direct the Income Tax Department to put the following information on its website u/s 4 (1) (b) of the RTI Act, viz :-

- (i) names and addresses of charitable institutions/entities which have been granted exemption u/s 10 & u/s 11/12 of the Income Tax Act; &
- (ii) names and addresses of the donors who have received tax exemption u/s 80 (G) of the IT Act.

Besides, he had also requested the Commission to issue directions to CBDT to provide full access to the public regarding files dealing with registration of institutions/entities as charitable organisations.

2. As these issues had deep legal implications and ramifications, the bench of Shri M.L. Sharma had requested the Chief Information Commissioner to constitute a Full Bench to hear and decide the matter. Pursuant thereto, the Chief Information Commissioner had constituted a bench consisting of the following in this regard :-

- (i) Shri A.N. Tiwari, Information Commissioner
- (ii) Shri M.L. Sharma, Information Commissioner
- (iii) Shri Shailesh Gandhi, Information Commissioner

3. The bench heard the matter on 6.11.2009 at 1530 hrs. The following were present :-

Appellant

1. Shri Rakesh Aggarwal

Respondents :-

1. Shri P.V. Rao, DIT (Exemption)
2. Shri Farhat Qureshi, Addl. DIT (Exemption)
3. Shri Amrish Bedi, Addl.DIT (Exemption)
4. Shri Virendra Singh Dhanda, ITO (E) & CPIO
5. Shri Dinesh Verma, CIT (ITA), CBDT
6. Shri Raman Chopra, Director

4. The appellant and the officers of the Income Tax Department were heard. The hearing, however, remained inconclusive. The Bench also decided to direct the CBDT to file their written submissions in the matter for consideration of the Commission and the matter was adjourned.

5. The matter is now scheduled for hearing on **11th March, 2010 at 1600 hrs.**

6. Notice may be issued to Chairman, CBDT, to depute senior officer(s) to appear before the Commission and also file their detailed representation two days before the date of hearing.”

2. As scheduled, the matter was further heard on 11.3.2010 by the Full Bench. The following were present :-

Appellant

(i) Shri Rakesh Agarwal along with Shri Ajay Kumar Goel

Respondents

- (i) Shri Raman Chopra, Director, TA-I, CBDT;
- (ii) Shri Amrish Bedi, Addl Director (Exemption) II;
- (iii) Shri Farhat Qureshi, Addl DIT (Exemption) R-I; &
- (iv) Shri P.V. Rao, DIT (E), New Delhi.

3. It is the submission of Appellant Shri Rakesh Agarwal that the criteria of grant of exemption by the Income Tax authorities under the statutory provisions is shrouded in mystery and there is no fool-proof system of restraining the concerned officers from granting exemptions in an arbitrary manner for extraneous considerations. He, therefore, requests for the directions of the Commission to the CBDT to make suo-motu disclosures regarding the registration of charitable trusts/institutions etc u/s 12 AA of the IT Act. More importantly, he also requests for directions for placing the files concerning the grant of exemptions in public domain so as to enable any citizen of India to inspect them without let or hindrance.

4. Shri A.K. Goel, who was issued notice to assist the Commission, broadly supports the stand taken by Shri Agarwal regarding suo-motu disclosure of the identity of the trusts/institutions which have been granted exemption by CIT or Director, IT (Exemptions) u/s 11, 12 and 13 of the IT Act. Shri Goel also files a written representation which is taken on record. Paras 14 & 17 thereof are reproduced below :-

“14 Further, neither the Directorate of Exemptions (Income Tax) nor any of these public charitable organizations is covered u/s 24 read with Second Schedule to the RTI Act. Thus, the information held by this office and in relation to such public charitable organizations cannot be denied.

.....
.....

17. Just for the information, the financial statements of the Public Ltd Cos are available for inspection or taking copies of the same from the office of Registrar of Companies irrespective of the fact that whether one has invested in the same or not. Same way financials of Private Ltd Cos except profit & loss account are available to the public at large. These are called public documents. One can inspect and analyse the same before entering into any transaction with these Companies. Even in the case of public charitable societies running recognized schools in Delhi, the financials are in public domain and one can have a copy of the same from Directorate of Education, Govt of NCT of Delhi, the controlling body of the Govt.”

A bare reading of the above passages would indicate that Shri Goyal has extended the ambit of suo motu disclosures, to envelope the Public Limited Companies and Public Charitable Societies, running schools in Delhi also.

5. The CBDT has also filed a detailed representation. Para 2.1 thereof deals with the registration and filing of Returns for a Trust which is extracted below in extenso :-

“Any Trust which carries activities for a charitable purpose as defined in Section 2 (15) of the Income Tax Act has to first apply for registration under Section 12AA of the Income Tax Act to the concerned Commissioner of Income Tax or the Director of Income Tax (Exemption) in metro stations. The Commissioner or the Director, as the case may be, examines the objects of the organisation and the genuineness of the organisation and its activities vis-à-vis its objects and on being satisfied about the same grant registration under Section 12A of the Income Tax Act.

However, grant of registration under Section 12A per-se does not make the income of any such registered organization automatically exempt under the Income Tax Act. It is only a precondition for eligibility of the organization to claim exemption under Section 11. The claim for exemption under Section 11 is made from year to year by filing a return of income before the Assessing Officer. In the return, particulars of the registration and other information about the activities carried on by such organization are to be filed together with the Income and expenditure account of the Trust duly audited by a Chartered Accountant and an audit report. The Assessing Officer after examining the return and making such other enquiries as may become necessary grants or denies the claim for exemption under Section 11. The decision of the assessing officer is governed by the conditions laid down in sections 11 and 12 of the Income Tax Act. In case the claim for exemption is rejected in any year, the assessee trust becomes liable to pay tax on his entire receipts. It is therefore submitted that exemption is not, in the nature of a concession given to the assessee. It is only after the assessee satisfies certain stringent conditions laid down under Sections 11 to 13 of the Income Tax Act that it becomes eligible for exemption from payment of income tax on a year to year basis.”

6. In para 2.3, it has been pleaded that information relating to exemptions under section 11 would impinge on the personal character of information furnished in the Returns of the income filed by the trusts and any directions for disclosure thereof would be contrary to the existing rulings of the Commission. It has also been argued that despite grant of exemption, such trusts remain assessee and it will not be fair and reasonable to make a distinction between different categories of assessee who file their returns. To quote :-

“The applications for registration under Section 12A is directly related to the exemption the entity intends to claim in its return of income. The information furnished in the return of income contains financial information about the receipts and expenses on the various objects actually carried out by the trust. Consequently, disclosure of information about exemptions granted under Section 11 would involve disclosure of personal details held by the department in a fiduciary capacity. Disclosure of such information to public in general or a third party would require seeking the objections from the concerned trust/society. Seeking objections of all trusts who have filed returns from year to year or have sought registration with the income tax department would involve huge additional work without any commensurate gains and may involve the Department in litigation with these trusts in various courts. More over, the claim for exemptions under Section 11 made by the trusts are examined every year by the assessing officer. Therefore, the status of exemption granted to a trust is subject to change from year to year. Thus, a one time uploading of data of trusts granted registration under Section 12A would not be feasible.”

7. It has been further submitted in the representation that there is no consolidated/centralized data base of information of names and addresses of all entities granted exemption u/s 11 and this information is being maintained by about 4000 Assessing Officers across the country and it is not possible to upload this data on a centralized basis.

8. With reference to voluntary disclosure of donors who have been granted benefit u/s 80G of the IT Act, the submission of CBDT is as follows :-

“3.1 The CIC has proposed to consider the issue of placing the names of all donors who have been granted benefit under Section 80G of the Income Tax Act on the website under Section 4 (1) (b) of the RTI Act. It is submitted that deduction under Section 80G is admissible to persons who make donations to trusts registered under Section 80G of the IT Act. The claim for deductions under Section 80G is made in the returns of such donors who are mainly individuals and HUF. The number of individual and HUF taxpayers exceed 2.5 crores. These persons file their returns of income before their concerned Assessing Officer across the country, numbering over 4000. No consolidated data of deduction under Section 80G claimed

by these donors is maintained as the such consolidated data is not required by the department. The information pertaining to deduction under Section 80G availed by each assessee would be available in the return of the respective year of such donors. It will involve disproportionate amount of efforts to extract such data from individual returns of such large number of taxpayers every year and place it centrally. Moreover, such information of donation is again personal information submitted by the donors/assesses to the department in its fiduciary capacity. The Commission has consistently held that the information pertaining to the income tax returns need not be disclosed.”

9. During the hearing the CBDT officers present before the Commission have underlined the points incorporated in the representation noticed above. However, they have fairly submitted that if the Commission decides to place the information in public domain, CBDT should be given reasonable time to put in place the necessary infrastructure for the purpose.

DECISION

10. We have given a serious thought to the matter. We have also taken note of the pre-ambule of the RTI Act which aims at promoting transparency and accountability in the working of the every Public Authority. In this context, it would be apt to advert to sub section 15 of section 2 of the IT Act which defines “charitable purpose”. This sub section is extracted below :-

“15. ‘Charitable purpose’ includes relief of the poor, education, medical relief and advancement of any other object of general public utility.”

Needless to say, avowed purpose for which these institutions/entities come into existence is charity. Charity and secrecy are contradiction in terms. Any charitable institution should have no secrets and should be open to public for all purposes, including its finances. In other words, in our opinion, it will be in the larger public interest if the identity of the charitable trusts/institutions/entities which are granted exemption from income tax under the statutory provisions are placed in the public domain. Hence, in exercise of powers under section 25(5) of the RTI Act, we hereby recommend that the identity of the charitable trusts/institutions/entities which have been granted exemption from income tax under section 10 & under section 11/12 of the Income Tax Act is placed in public domain by way of suo-motu disclosure by the CBDT in terms of section 4(1)(b) r/w section 4(2) of the RTI Act. However, given the magnitude of the work involved, the plea of the officers of CBDT for grant of reasonable time in this regard cannot be disregarded. We think that time period of 08 months will be reasonable. The Chairman, CBDT, will send a compliance report to the Commission after the expiry of 08 months.

11. Now we come to the question of placing the names and the addresses of the donors who have received tax exemption under section 80G of the I.T. Act, in public domain. The submissions made by the CBDT officers in this

regard have been extracted here-in-above. We feel the weight of their submissions. It is to be noted that the claim of deductions under section 80G is made in the returns of donors who are mainly individuals and HUF. Their number is said to be about 2.5 crores. No consolidated data of deductions under section 80G is being maintained by the Income Tax Department. Hence, in our view, recommending such an action will not be desirable at this stage.

12. The matter is decided accordingly.

Sd/-
(Shailesh Gandhi)
Information Commissioner

Sd/-
(M.L. Sharma)
Information Commissioner

Sd/-
(A.N. Tiwari)
Information Commissioner

Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges, prescribed under the Act, to the CPIO of this Commission.

(K.L. Das)
Assistant Registrar

CENTRAL INFORMATION COMMISSION

Club Building (Near Post Office)

Old JNU Campus, New Delhi-110067

Tel: +91-11-26105682

File No.CIC/DS/A/2012/000688/RM

Appellant: Dr. Sandeep Kumar Gupta, Hisar, Haryana

Public Authority: CBDT, Deptt. of Revenue, New Delhi

Date of Hearing: 10.04.2013

Date of decision: 10.04.2013

Heard today, dated 10.04.2013 through video conferencing.

Appellant is present.

The Public Authority is represented by Ms Deepshikha Sharma, Dy Secretry, ITAI CBDT.

FACTS

Vide RTI dt 7.6.11, appellant had asked for details of all Trusts, organizations, societies etc, donations made to which are eligible for tax relief u/s 80G of the IT Act.

2. CPIO CBDT vide letter dt 7.7.11, informed the appellant that no such list was maintained by them. However, data relating to charitable entity was available on the departmental web site.

3. An appeal was filed on 16.7.11 stating that the applicant was unable to find out the details of charitable institutions on the departmental website.

4. AA vide order dt 19.8.11, directed the CPIO to forward a screen print of the web page of the departmental web site clearly indicating the link for exempt institutions. CPIO vide letter dt 1.9.11, provided the requisite information.

5. Submissions made by the appellant and public authority were heard. The appellant submitted that the data on the website cannot be accessed until the full name of the organisation, PAN number, IT Circle and other details are fed in. As this information is not available to the common citizen, he cannot access the desired data. Appellant further referred to a full bench decision of the CIC – CIC/LS/A/2009/00190 dt 9.3.2010 wherein the CBDT had been requested to make suo moto disclosure on the website of organisations exempted. The appellant submitted that these orders of the CIC have not been implemented.

DECISION

6. The Commission in its three Bench decision dt 9.3.2010, appeal no.CIC/LS/A/2009/00190, had ordered as follows:

“Hence, in exercise of powers under section 25(5) of the RTI Act, we hereby recommend that the identity of the charitable trusts/institutions/entities which have been granted exemption from income tax under section 10 & under section 11/12 of the Income Tax Act is placed in public domain by way of suo-motu disclosure by the CBDT in terms of section 4(1)(b) r/w section 4(2) of the RTI Act. However, given the magnitude of the work involved, the plea of the officers of CBDT for grant of reasonable time in this regard cannot be disregarded. We think that time period of 08 months will be reasonable. The Chairman, CBDT, will send a compliance report to the Commission after the expiry of 08 months.”

7. Keeping in view the above decision, the Commission directs Ms Deepshikha Sharma, PIO/Deputy Secretary, ITAI, CBDT, New Delhi, to ascertain the factual position about the implementation of the above decision and send a report to the Commission within four weeks of receipt of this order.

The appeal is disposed of.

Sd/-

(Rajiv Mathur)

Central Information Commissioner

Authenticated true copy forwarded to :

The OSD- (ITA-I) & CPIO (RTI Cell)
M/o Finance, Department of Revenue
CBDT, North Block,
New Delhi

The Director (ITA-I) & First Appellate Authority
M/o Finance, Department of Revenue
CBDT, North Block,
New Delhi

Dr. Sandeep Kumar Gupta
1778, Sector 14,
Hisar Haryana

(Raghubir Singh)
Deputy Registrar
.04.2013

CENTRAL INFORMATION COMMISSION
Club Building (Near Post Office)
Old JNU Campus, New Delhi - 110067
Tel: +91-11-26101592

File No. CIC/RM/A/2014/003306/BS/9253

17 December 2015

Relevant Facts emerging from the Appeal:

Appellant : Mr. Parbodh Chander Bali
R/o – 16 – Shiv Nagar, Batala Road,
Amritsar – 143001

Respondent : CPIO/ Income Tax Officer (Tech) ,
Income Tax Department
O/o the Chief Commissioner of Income Tax,
Aayakar Bhawan, Maqbool Road,
Amritsar – 143001

RTI application filed on : 09/12/2013
PIO replied on : No Reply
First appeal filed on : 31/12/2013
First Appellate Authority order : 03/02/2014
Second Appeal dated : 23/03/2014

Information sought:

1. List of Charitable Trusts/Institutions/Entities which have been granted exemption from Income Tax under Section 10 & 11/12 in your jurisdiction.
2. Link of your website where suo-motu disclosure of above information is available on your website.
3. Audited Balance Sheets with its attachments of the following
4. Assessment Orders in respect to above of the following trusts
 - i. Shivala Bagh Bhayian Trust, Amritsar
 - ii. Ram Katha Simiti, Amritsar
 - iii. Ram Ashram Educational Society, Amritsar
 - iv. Bhawan SL public School, Amritsar
 - v. Bhartiya Vidya Bhavan Amritsar Kendra, Amritsar.

Grounds for the Second Appeal:

The CPIO has not provided the desired information.

Relevant Facts emerging during Hearing:

The following were present

Appellant: Mr. Parbodh Chander Bali through VC

Respondent: Mr. J S Ghelot CPIO through VC

The appellant stated that he has two issues (i) the non-compliance of CIC's full bench order dated 09/03/2010 [file no. CIC/LS/A/2009/00190] vide which the CBDT was directed to upload the identity of charitable trusts/institutions which have been granted exemption from income tax under Section 10 and under Section 11/12 of the Income Tax Act and (ii) CPIO transferred his RTI application to his subordinate offices under Section 6(3) whereas he should have used the provisions of Section 5(4) of the RTI Act for gathering the information and supplying the same to

him. The CPIO stated that income tax is a very large department having several CPIOs and each CPIO has a different jurisdiction and the relevant part of the RTI application was transferred to them to expedite the information. As regards uploading of the names of entities which have been granted exemption, the CPIO stated that the custodian of the records is the CIT (exemption) Chandigarh and he will write to them for compliance of the Commission's aforesaid order.

Decision notice:

As stated by the CPIO he should write to the CIT (Exemption) Chandigarh for compliance of CIC order dated 09/03/2010 [file no. CIC/LS/A/2009/00190- R. Agarwal vs Income Tax Department] at the earliest.

As regards transfer of part of RTI application to other CPIOs of the public authority under Section 6(3) of the RTI Act, the issue has been elaborately discussed by a Coordinate bench of this Commission in its order dated 26/08/2009 [file no. CIC/AT/A/2009/000135 – Ms. M N Sanjana vs Mumbai Port Trust] holding as under:-

“16. I'm fully in an agreement with the respondents that a CPIO receiving a request for information, which was known to be held by other officials within the public authority, was empowered to refer the matter to the holder and calling upon him to reply independently to the requester. There is no reason to assume that the above Sections require a CPIO who did not hold the requested information that he must collect it from all its sources and to provide it to the appellant.”

As per the ratio of the above cited decision the CPIO's action of transferring part of the RTI application to another CPIO who held the relevant records cannot be faulted. However, it should be ensured that in such cases the CPIO receiving the RTI application transfers the relevant part(s) of the application to the concerned CPIO(s) under intimation to the appellant.

The appeal is disposed of accordingly.

BASANT SETH
Information Commissioner

Authenticated true copy:

(R. L. Gupta)
Dy. Registrar/Designated Officer

CENTRAL INFORMATION COMMISSION
Club Building (Near Post Office)
Old JNU Campus, New Delhi - 110067
Tel: +91-11-26101592

File No. CIC/RM/A/2014/003758/BS/9478
11 January 2016

Relevant Facts emerging from the Appeal:

Appellant : Mr. Radhey Shyam Lall,
H/o – Iswar Dayal Sinha,
Khash Mahal, Road, No – 3,
Chiraiyatand, Patna – 800001

Respondent : CPIO / Assistant Director of Income Tax,
Exemption - II
Income Tax Department,
O/o the Assistant Director of Income Tax,
Exemption - II
10B Middleton Row, Kolkata – 700071

CPIO / Dy. Commissioner of Income Tax
Exemption –I,
Income Tax Department
O/o Dy. Commissioner of Income Tax Exemption –I,
10B Middleton Row, Kolkata – 700071

RTI application filed on : 10/07/2013
PIO replied on : 06/08/2013
First appeal filed on : 03/09/2013
First Appellate Authority order : No Order
Second Appeal dated : 25/04/2014

Information sought:

1. Name & Address of public charitable trusts, Registered under Indian Trust Act, 1882 and registered also under Sec. 12AA of Income Tax Act, 1961 within the jurisdiction of ADIT (E) – I & ADIT (E)-II, Kolkata.
2. These information may be provided for three assessment years, 2011-12, 2012-13 and 2013-14.
3. Out of these, how many are availing benefits of exemption u/s 80G/35AC/ 35(1) (ii) and 85 (I) (iii) of the Income Tax Act, 1961.
4. What is the quantum of exemption granted to these institutions for the said consecutive Annual Year?
5. Where are the sources of generating their funds?
6. Whether these institutions are accepting public deposits.
7. Whether they have engaged commission agents to collect such public deposits.
8. If so, whether they are deducting TDS from their engaged agents to deposit onwards to Income Tax Dept.
9. No. of preventive and Audit checks taken by the Income Tax Dept. to check Income Tax Evasion by them (those public charitable institution)

10. If so, the quantum of such detected.

11. Whether they have appointed PIO as they are enjoying the benefit of public exchequer.

Grounds for the Second Appeal:

The CPIO has not provided the desired information.

Relevant Facts emerging during Hearing:

The following were present

Appellant: Mr. Radhey Shyam Lall through VC

Respondent: Ms. Priti Mondal CPIO & Mr. S Chatterjee CPIO

The appellant stated that he needs the list of charitable trusts/institutions/entities which have been granted exemption from income tax under Section 10 & Section 11/12 of the Income Tax Act for the years 2011-12, 2012-13 and 2013-14. In support of his contention he quoted full bench decision dated 09/03/2010 [file no. CIC/LS/A/2009/00190 - Rakesh Agarwal vs. CBDT].

Decision notice:

In the full bench order dated 09/03/2010 cited by the appellant the Commission has held as under:

“Needless to say, avowed purpose for which these institutions/entities come into existence is charity. Charity and secrecy are contradiction in terms. Any charitable institution should have no secrets and should be open to public for all purposes, including its finances. In other words, in our opinion, it will be in the larger public interest if the identity of the charitable trusts/institutions/entities which are granted exemption from income tax under the statutory provisions are placed in the public domain. Hence, in exercise of powers under section 25(5) of the RTI Act, we hereby recommend that the identity of the charitable trusts/institutions/entities which have been granted exemption from income tax under section 10 & under section 11/12 of the Income Tax Act is placed in public domain by way of suo-motu disclosure by the CBDT in terms of section 4(1)(b) r/w section 4(2) of the RTI Act. However, given the magnitude of the work involved, the plea of the officers of CBDT for grant of reasonable time in this regard cannot be disregarded. We think that time period of 08 months will be reasonable. The Chairman, CBDT, will send a compliance report to the Commission after the expiry of 08 months.”

Accordingly, the CPIOs are directed to provide list of charitable trusts/institutions/entities which have been granted exemption from income tax under Section 10 & Section 11/12 of the Income Tax Act for the years 2011-12, 2012-13 and 2013-14, to the appellant within 30 days from the date of receipt of this order.

The appeal is disposed of accordingly.

BASANT SETH
Information Commissioner

Authenticated true copy:

(R. L. Gupta)
Dy. Registrar/Designated Officer