

GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
MEPZ SPECIAL ECONOMIC ZONE
N.H.45, G.S.T. ROAD,
TAMBARAM,
CHENNAI-600 045.

F.No.RTI/MSEZH/A/2019/60001

3257

Dated:09.07.2019

**Sub: Filing of First Appeal under Section 19(1) of The Right to Information Act, 2005
Against the reply in letter No.RTI/MSEZH/R/2019/50004/3105 dt.11.06.2019 of the
CPIO/Joint Commissioner of Customs, MEPZ Special Economic Zone, Chennai – Reg.**

Ref: RTI Appeal dated 25.06.2019.

DECISION OF THE FIRST APPELLATE AUTHORITY

An application dated 17.05.2019 under RTI Act, 2005, seeking certain information was received by the CPIO, O/o Development Commissioner, MEPZ-SEZ from Shri Pankaj Kumar Singh, resident of B2, Mohan Meakins Limited, Mohan Nagar, Ghaziabad-201 007, hereinafter referred to as the Appellant.

The CPIO vide letter No. RTI/MSEZH/R/2019/50004/3105 dt.11.06.2019 had furnished the available information to the Appellant.

Not satisfied with the information furnished by the CPIO, the Appellant vide his Letter dated 25.06.2019, has filed an appeal before me under Rule 19(1) of the RTI Act, 2005.

I have gone through the submissions and grounds of appeal of the Appellant. It is seen that the Appellant vide his letter dated 17.05.2019 had sought information relating to number of applications received from the taxpayers for issuing endorsements both with payment of tax and without payment of tax under Letter of Undertaking (LUT). In response, the CPIO has informed the Appellant that the details about the number of applications received from taxpayers for endorsement both for with payment of tax and without payment of tax under LUT are not

maintained by this office. The CPIO has further stated in her reply that the endorsements as required under the GST Law are done by the Specified Officer in SEZ as and when such requests are made by the Units/Developers, routed through the Authorised Officers of the concerned SEZ.

The Appellant, in his Appeal, has stated that it is surprising that according to the response provided no such information is maintained by this office, which means that there is no system and process being followed with respect to applications received for issuance of endorsements. The Appellant has further suggested that it is a matter of serious concern and should be highlighted to the law makers since a large amount of funds have been blocked in form of GST paid to the Government, which have not been claimed as refund due to non-issuance of endorsements by the SEZ Authority. The Appellant has claimed that it is the case of information available with the SEZ Authority, however not provided to the applicant and has requested the First Appellate Authority to issue direction or order and arrange the required information.

As per Section 2(f) of the RTI Act, "information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force. It is pertinent to note here that only the "information" which is available with the Public Authority, in any form as specified above, can be furnished to the applicant under the RTI Act. However where such information is not available, the question of furnishing such information does not arise.

In the instant case, the CPIO has categorically stated in her reply that neither the details about applications received from the tax payers for endorsements nor the number and amount of endorsements issued to the tax payers is maintained by this office. This shows that the information as sought by the Appellant is not available in this office.

On receipt of this Appeal, it has been further confirmed by the Customs Division of this office that there is no prescribed application format under the GST/SEZ Law or any other instruction or Circular issued by the Government of India for endorsement of invoices for supply of goods/services to SEZs and that there is no provision under the GST/SEZ Law or any other Instruction or Circular issued by the Government of India for maintaining the information relating to the number of applications received for endorsement, endorsements issued and endorsements pending.

As regards the concern of the Appellant that a large number of funds have been blocked in the form of GST paid to the Government which have not been claimed as refund due to non-issuance of endorsement by the SEZ Authority, the CPIO in her reply dated.11.06.2019 has informed the Applicant that as on April 2019, there is no pendency in endorsements to be made under the GST law in this office.

Therefore, on examination of the reply given by the CPIO vide her letter No.RTI/MSEZH/R/2019/50004/3105 dt.11.06.2019, it is seen that the information as available in this office has already been furnished to the Appellant. The request of the Appellant to provide the information which is not available in this office cannot be considered.

Accordingly, the Appeal filed by Shri Pankaj Kumar Singh is hereby disposed of.

If the Appellant is not satisfied with this Order, he may prefer an appeal with the 2nd Appellate Authority whose address is given below within 30 days of the date of this letter:-

**Central Information Commissioner,
II Floor, C Wing,
August Kranti Bhavan,
Bikaji Cama Place,
New Delhi-110 006.**

D. Anandan
9/7/2019

**(D. ANANDAN)
FIRST APPELLATE AUTHORITY &
JOINT DEVELOPMENT COMMISSIONER**

To

**Shri Pankaj Kumar Singh,
B2, Mohan Meakins Limited,
Mohan Nagar,
Ghaziabad, Pin:201 007.**

Copy to: The CPIO, MEPZ Special Economic Zone,
Tambaram, Chennai-45.

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