केन्द्रीय सूचना आयोग
Central Information Commission
बाबागंगनाथमार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नईदिल्ली, New Delhi – 110067

File No : CIC/CBECE/A/2021/117652

David John ......अपीलकर्ता/**Appellant**

VERSUS
बनाम

CPIO,
Central Board of Indirect Taxes and Customs,
Office of the Commissioner of Customs,
RTI Cell, Custom House, Willingdon Island,
Cochin-682009, Kerala. **प्रतिवादीगण/Respondent**

Date of Hearing	:	20/07/2022
Date of Decision	:	20/07/2022

INFORMATION COMMISSIONER : Saroj Punhani

Relevant facts emerging from appeal:

RTI application filed on	:	20/01/2021
CPIO replied on	:	17/02/2021
First appeal filed on	:	22/02/2021
First Appellate Authority order	:	10/03/2021
2nd Appeal/Complaint dated	:	20/04/2021

Information sought:
The Appellant filed an RTI application dated 20.01.2021 seeking the following information:

> *"1)Please provide copy of the full file regarding this gun import (including, copy of invoice, ballastic test done if any ,duty charged etc.)."*

The CPIO denied information to the appellant on 17.02.2021 under section 8(1)(j) of the RTI Act, 2005.

Being dissatisfied, the appellant filed a First Appeal dated 22.02.2021. FAA's order dated 10.03.2021 observed as under:-

"I have carefully examined the facts and circumstances of the instant appeal. The appeal filed by Shri David John is a mere reiteration of the information sought before the original authority. No challenge on the grounds lot rejection of the application is brought on record by the appellant.

The information seeker claims that the weapon imported and covered by the said consignment number has been involved in a crime and places reliance on a crime number cited in the application. However, neither any material that would substantiate his claim that the weapon involved in the crime was the one imported in the said consignment nor the details about the Crime No cited is brought on record either before the original authority or in appeal. Clearances of imported goods through Post or otherwise is part of an assessment process which would examine the nature and value of the goods. Assessment is thus a process relating to the person importing the goods. All information connected therewith therefore is private information received by the department in a fiduciary capacity and the same cannot be divulged unless a larger public interest is objectively brought out.

The Hon'ble Central information Commission had in the case of G.R. Rawal, Meghaninagar, Ahmadabad v D.G of Income Tax (Investigation) Ahmadabad, ((2008) 2 ID 82, CIC, Delhi), held that assessment details are definitely personal information concerning some individual or legal entity, that the disclosure of assessment details may result in an undue invasion to the privacy of an individual and that disclosure of such details cannot be permitted under section 8(1)(j) of the Right to information Act, 2005 unless there is an overriding public interest justifying disclosure. In the instant case, the import being a weapon, by an individual and information being sought for is by an unrelated party without disclosing the full details of any larger public interest. I find that no such material is brought out in the original application or in appeal. The information sought therefore rightly appears to Tall within the exemptions under section 8(1) (e) and (j) I further find that it is stated that a crime has been registered in relation to the alleged weapon. If that be the case, it follows that the matter is under investigation by a competent agency of the state and therefore the information sought is one falling within the process of investigation and therefore entitled to the exemption under 8(1)(h) of the Right to Information Act, 2005. Further the information sought by such authorities is on a totally different standing and as per prescribed procedure.

I therefore pass the following order:

ORDER

The appeal is dismissed as not maintainable."

Feeling aggrieved and dissatisfied, appellant approached the Commission with the instant Second Appeal.

Relevant Facts emerging during Hearing:

The following were present:-

Appellant: Present through video conference.

Respondent: Subha Chandran, Assistant Commissioner & CPIO present through video conference.

The CPIO reiterated the written submissions filed by her prior to the hearing stating as under:

"The information sought has been denied to the appellant under Section 8(1)(j) of the RTI Act, 2005, as the same qualifies as personal information. It is a fact that the appellant has not brought out any material in the original application or in appeal, to substantiate his claim that establishes the element of larger public interest warranting the disclosure of the personal information of the person other than the applicant. Clearance of imported goods through post or otherwise is part of an assessment process which would examine the nature and value of the goods. All information connected therewith therefore, is personal information received by the department in a fiduciary capacity and the same cannot be divulged unless the larger public interest is objectively brought out.

The Hon'ble Central Information Commission had in the case of G.R. Rawal, Meghaninagar, Ahmadabad Vs D.G of Income Tax (Investigation) Ahmadabad, [(2008) 2 ID 82, CIC, Delhi], held that assessment details are definitely personal information concerning some individual or legal entity, that the disclosure of assessment details may result in an undue invasion to the privacy of an individual and that disclosure of such details cannot be permitted under section 8(1)0) of the Right to information Act, 2005 unless there is an overriding public interest justifying the disclosure.

Further, the said consignment was cleared as per prevailing Customs law. The only question of determination in this appeal is as to whether the information sought is eligible for disclosure to the appellant under RTI Act, 2005. The wild allegations raised by the appellant against Customs officials shall not come to the help of the appellant, if the information sought is otherwise stipulated as barred from disclosure under the relevant provisions of RTI Act, 2005. Evidently, the *information sought by the appellant is exempted from disclosure under Section 8(1)(j) as detailed under:*

Section 8(1)(j)of the RTI Act 2005 which reads, "information which relates to personal information the disclosure of which has not relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information: Provided that the information, which cannot be denied to the Parliament or a State Legislature shall not be denied to any person".

Clearly, the consignment in question was neither imported and nor cleared by the appellant. Therefore, Section 8(1)(j) of RTI Act, 2005, which excludes the disclosure of personal information finds, a proper application in the present case."

The Appellant stated that he does not contest that the information sought for is hit by Section 8(1)(j) but urged that disclosure of the same is in the larger public interest. The arguments of the Appellant to this effect as contained in the grounds of the Second Appeal is reproduced hereunder:

"*I am the former Jt Secretary of Kerala State Rifle Association .I am well aware of illegal trade in arms and ammunition by arms smugglers ,poachers and anti national elements disguised as sports shooters .I am have filed number of complaints and cases with various central and state investigating agencies and courts of law against this . The FAA in Findings has claimed that the applicant has not provided any material which substantiate that weapon sized in crime was the one imported in the said consignment. I am attaching the complete set of documents in the bail order of the accused which was obtained at a later date. Please refer to page No:21-22 in which accused is claiming customs duty allowance for the sized weapon and the bail application in which weapon is imported as per law. The requested information is relating to illegal import of Restricted Weapons . There exists a mafia which imports Restricted Weapons for illegal wildlife hunting. I suspect some customs officials are hand in glove with the mafia. This particular imported weapon was seized in a crime under Kerala Forest Act. The gun seized is not a sports weapon and illegal to import into the country, the only way to import the Restricted Weapons into the country is to pass it off as a sports weapon with the collusion of customs officials. The gun with a factory fitted silencer was allowed to pass through customs makes it a larger conspiracy.*

Only army and service personal are allowed to possess weapons fitted with silencer."

Decision:

The Commission based on a perusal of the facts on record observes that the FAA had adequately justified the denial of the information under Section 8(1)(j) of the RTI Act and the CPIO has also discharged the onus of justifying the denial of the information as per Section 19(5) of the RTI Act. Further, the Commission is unable to comprehend the aspect of larger public interest being argued in the matter by the Appellant and is not inclined to intervene with the reply of the CPIO. In this regard, the Commission places reliance on a catena of judgments of the superior Courts on the import of "*public interest*" as under:

The Hon'ble Supreme Court in the matter of *Bihar Public Service Commission vs. Saiyed Hussain Abbas Rizwi & Anr.* [CIVIL APPEAL NO.9052 OF 2012] observed as under:

"23. The expression 'public interest' has to be understood in its true connotation so as to give complete meaning to the relevant provisions of the Act. The expression 'public interest' must be viewed in its strict sense with all its exceptions so as to justify denial of a statutory exemption in terms of the Act. In its common parlance, the expression 'public interest', like 'public purpose', is not capable of any precise definition. It does not have a rigid meaning, is elastic and takes its colour from the statute in which it occurs, the concept varying with time and state of society and its needs. [State of Bihar v. Kameshwar Singh (AIR 1952 SC 252)]. ***It also means the general welfare of the public that warrants recommendation and protection; something in which the public as a whole has a stake*** *[Black's Law Dictionary (Eighth Edition)].* **Emphasis Supplied**

"24. The satisfaction has to be arrived at by the authorities objectively and the consequences of such disclosure have to be weighed with regard to circumstances of a given case. The decision has to be based on objective satisfaction recorded for ensuring that larger public interest outweighs unwarranted invasion of privacy or other factors stated in the provision. Certain matters, particularly in relation to appointment, are required to be dealt with great confidentiality."

".... Similarly, there may be cases where the disclosure has no relationship to any public activity or interest or it may even cause unwarranted invasion of privacy of the individual. All these protections have to be given their due implementation as they spring from statutory exemptions. ***It is not a decision***

simpliciter between private interest and public interest. It is a matter where a constitutional protection is available to a person with regard to the right to privacy. Thus, the public interest has to be construed while keeping in mind the balance factor between right to privacy and right to information with the purpose sought to be achieved and the purpose that would be served in the larger public interest, particularly when both these rights emerge from the constitutional values under the Constitution of India." **Emphasis Supplied**

Similarly, in another judgment of the Hon'ble Supreme Court in the matter of *S. P. Gupta v President of India*, [AIR 1982 SC 149], with reference to 'public interest' it has been maintained that:

"Redressing public injury, enforcing public duty, protecting social, collective, 'diffused' rights and interests vindicate public interest… [in the enforcement of which] ***the public or a class of the community have pecuniary interest or some interest by which their legal rights or liabilities are affected****."* **Emphasis Supplied**

And, in the matter of *State of Gujarat vs. Mirzapur Moti Kureshi Kasab Jamat & others* [Appeal (Civil) 4937-4940 of 1998], the Hon'ble Supreme Court has held that:

"the interest of general public (public interest) is of a wide importance covering public order, public health, public security, morals, economic welfare of the community, and the objects mentioned in Part IV of the Constitution [i.e. Directive Principles of State Policy]". **Emphasis Supplied**

As it follows, in the considered opinion of this bench the Appellant has not urged larger public interest in any of the above referred contexts, and therefore the Commission is not in a position to ascribe any credence to his contentions.

With the above observations, the appeal is disposed of.

Saroj Punhani (सरोजपुनहानि)
Information Commissioner (सूचनाआयुक्त)

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)

(C.A. Joseph)
Dy. Registrar
011-26179548/ ca.joseph@nic.in
सी. ए. जोसेफ, उप-पंजीयक
दिनांक /