

CENTRAL INFORMATION COMMISSION

Club Building (Near Post Office)

Old JNU Campus, New Delhi-110067

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File No.CIC/RM/A/2013/000445

Appellant: Shri Amit Agarwal, Delhi

Public Authority: ITO, Ward – 25(1) & Addl. CIT,  
Range-37, New Delhi

Date of Hearing: 01.08.2013

Date of decision: 2.08.2013

Heard today, dated 01.08.2013.

Appellant is present along with Ms Shukla Agarwal.

The Public Authority is represented by Shri P.Roychaudhuri, Advocate, Shri PK Malik, ITO Ward 37(1), Shri PK Mamgain, Inspector.

FACTS

Vide RTI dt 29.2.12, appellant had sought copies of all complaints made by Shri Rajeev Aggarwal against the appellant since 2007 and copies of all documents in respect of the complaints.

2. CPIO/ITO Ward 25(1) vide letter dt 20.3.12, informed the appellant that the information sought are denied u/s 8(1)(d) and (j) as income tax related details are personal in nature and not in public domain. Appellant was also informed that his case records were being transferred to ITO Ward 37(1).

3. An appeal was filed on 5.4.12, which was disposed of by FAA vide order dt 3.5.12, directing CPIO to dispose of the petition on merit. CPIO vide order dt 31.5.12, disposed of the same stating that it is a TEP and not complaint and hence cannot be disclosed.

4. Another appeal was filed on 13.6.12 which was disposed of by the FAA vide order dt 12.7.12.

5. Submissions made by the appellant and public authority were heard. CPIO submitted that the assessment process has been completed and along with the

assessment order, a demand notice and penalty notice were issued to the appellant. Appellant has since gone in appeal to CIT(Appeal), against the said assessment order. As the matter is pending before CIT(Appeal), PIO expressed reservation in providing a copy of the TEP. Appellant submitted that he is involved in a matrimonial dispute and the complaint filed against him is by the brother of his ex-wife. He further submitted that since the process of assessment is completed there is no issue if he is provided with a copy of the TEP and as it would not impact in any way on the process of investigation.

## DECISION

6. Clause (h) of Section 8(1) of the RTI Act is reproduced below:

“Information which would impede the process of investigation or apprehension or prosecution of offenders”

7. In the case of Smt Durgesh Kumari Vs Income Tax Department (CIC/LS/A/2010/000685 DT 26.8.11) the Commission has held as follows:

“11. Admittedly, the appellant has been tried and convicted by the trial court. Her appeal is pending before the High Court. In our opinion, the process of ‘prosecution’ is not yet over and it is still continuing, for, it is open to the court to affirm, modify or reverse the trial court judgement and thereupon any of the parties may further agitate the matter before the apex court. The process of prosecution, thus, is a continuing process which can be said to be over only when all judicial remedies have been fully exhausted. This is the situation in the present case.”

8. Clause (g) of Section 8(1) of RTI Act is also extracted below:

“Information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes.”

9. TEP is an information which is given in confidence to the IT officials and hence would fall under the said exemption clause.

10. In view of above, the decision of CPIO/AA is upheld and the appeal is disposed of.

Sd/-

(Rajiv Mathur)

Central Information Commissioner

Authenticated true copy forwarded to:

The ITO & CPIO  
O/o the Income Tax Officer  
Ward -25 (1), Room No. -304 A  
D- Block, Vikas Bhawan, New Delhi

The Addl. CIT & First Appellate Authority  
O/o the Addl. Commissioner of Income Tax  
Range -37, Room No. 305, 'D' Block,  
Vikas Bhawan, New Delhi -110002.

Shri Amit Agarwal  
QD -43, Ground Floor  
Pitampura ,Delhi

(Raghubir Singh)  
Deputy Registrar  
.08.2013