

**BEFORE THE COMMISSIONER OF EXCISE,
GOVERNMENT OF GOA, PANAJI – GOA**

Appeal No.03/2017.

Shri Sushant P. Nagvenkar,
H.No. C-312, Fondvem,
Ribandar - Goa. 403 006.

V/s

... The Appellant
(originally Applicant)

The Public Information Officer,
Office of the Commissioner of Excise,
Panaji, Goa.

..... Respondent

This Order shall dispose of the Appeal dated 22/03/2017 filed by Shri Sushant Nagvenkar, R/o H.No. C-312, Fondvem, Ribandar, Tiswadi – Goa before this Authority.

The brief facts of the case are as under:

1. The Appellant hereinabove had made an application on 06/02/2017 to the Public Information Officer, Department of Finance (Revenue & Control), Secretariat, Porvorim – Goa, seeking certain information under the Right to Information Act 2005, which was forwarded to the PIO of this Department and was received by this Office on 08/02/2017,
2. The Appellant has filed this Appeal on 22/03/2017 before this Authority, stating that the Respondent PIO has not furnished reply to his query made in his application dated 06/02/2017.
3. Notices were accordingly issued on 27/03/2017 to the Appellant and the Respondent for hearing the appeal, before this Authority
4. The hearing was fixed on 18/04/2017 on which date the PIO was present but the Appellant was absent. The next date for hearing was fixed on 05/05/2017. On this date also the Appellant did not appear and the hearing was adjourned to 16/05/2017 for filing reply by Respondent. The

Contd.../-


Appellant again did not appear on 16/05/2017 and the Respondent filed his reply to the Appeal. The matter was thereafter fixed for arguments on 23/05/2017.

5. During the hearing on 23/05/2017 the Appellant as usual remained absent however he had submitted a letter dated 20/05/2017 which was inwards on 22/05/2017 whereby he has informed that he would not be able to attend the hearing and requested that the matter may be decided ex-parte. Accordingly the PIO was heard in the matter and on the basis of the reply filed by the PIO and the records of the case, it was decided to dispose of the Appeal.

6. I have perused the appeal dated 22/03/2017, filed by the Appellant herein. I have also perused the reply filed by the Respondent. I have also perused the reply furnished to the Appellant dated 24/02/2017, by the Respondent PIO in reply to his application dated 6/02/2017, requesting certain information under RTI Act 2005. The Appellant as per his appeal has a specific grievance that the Respondent PIO has not furnished reply to query No.2(iii) of his application dated 06/02/2017, which is reproduced as follows:

“Details of interest of Department/State identified in defending the case which is a prima facie case of violation of the Goa Excise Duty Act and Rules 1964 and Section 7 of the RTI Act amounting to refusal of information for which the Assistant Commissioner is individually responsible (copy of letter dated 22/11/2016 in reply to RTI application dated 22/11/2015 is enclosed herewith in support).”

7. The Respondent PIO in his reply dated 10/05/2017, to the application has submitted that the above query does not fall within the purview of RTI Act. He has further submitted that the RTI Act envisages that all information as available with the Department is to be furnished to the applicant on “as is where is basis” and the PIO is not required to interpret the laws or furnish certified copies of Act and Rules which are already available to the public and as such the query sought does not come under the purview of the RTI Act. The PIO also submitted that the RTI Act does not envisage giving reasons for any decision and information as available if to be provided to the querist.




8. It is clear from the above that on plain reading of the query of the Appellant that the Appellant has sought details of interest of the Department and the State in defending the case which according to him is a case of violation of the Goa Excise Duty Act and Rules 1964 and Section 7 of the RTI Act amounting to refusal of information for which the Assistant Commissioner is individually responsible. In this case it is seen that the Appellant not being satisfied with the replies submitted by the PIO and the First Appellate Authority has taken up the matter before the higher Authorities for addressing his grievance and that as a matter of procedure the Respondents have to put up their appearance either personally or through a legal assistance for defending the matter before the Appellate Authority. What is the interest of the State in appointing a Legal Assistant to represent the Authorities in my opinion is not information as per the provisions of the RTI Act, 2005. In the circumstances as above, I am in agreement with the reply given by the Respondent PIO which is in accordance with the provisions of the RTI Act and as such the grievance raised by the Appellant is not tenable. I pass the following Order:

ORDER

I, Shri Menino D'Souza, Commissioner of Excise do hereby dismiss of the Appeal dated 22/03/2017 filed by Shri Sushant Nagvenkar.

Panaji Goa.

Dated:- 21/5/2017.


(Menino D'Souza)
Commissioner of Excise

To
Shri Sushant P. Nagvenkar,
H. No. C-312, Fondvem,
Ribandar - Goa. 403 006.

To
The Public Information Officer,
Office of the Commissioner of Excise,
Panaji - Goa.