

Central Information Commission

Shri Nirmal Solanki vs Directorate Of Enforcement on 31 July, 2009

CENTRAL INFORMATION COMMISSION

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F.No.CIC/AT/A/2009/000309 Dated, the 31st July, 2009.

Appellant : Shri Nirmal Solanki Respondents : Directorate of Enforcement This matter came up for hearing on 21.07.2009 pursuant to Commission's notice dated 22.06.2009. Appellant was absent when called. Respondents were present through Shri R.K. Rawal, Assistant Director and Shri S.C. Adlakha, Assistant Director.

2. In his RTI-application dated 08.10.2008 appellant had raised certain queries relating to Foreign Exchange Rate. A copy of the RTI-application is enclosed to this order.

3. In his reply dated 10.09.2008, CPIO informed appellant that while the query which he had made could not be answered by the Directorate of Enforcement the respondents as it did not hold the information sought, appellant was reminded that the Directorate of Enforcement was an exempt organization under Section 24 of the RTI Act and, therefore, could not be obligated to disclose the information even if it held such information.

4. Appellate Authority, in his order dated 11.12.2008, upheld CPIO's decision.

5. CPIO, again through a communication dated 18.11.2008, informed appellant that the information he had sought should be obtained from the Reserve Bank of India and the Department of Customs.

6. Now in his second-appeal, appellant has pleaded that he had made the request for information on behalf of his client, Shri Vasudev Moolrajani, owner of the Firm, Vikas Watch Manufacturing Industries. According to the appellant, his client, Shri Moolrajani has been proceeded against by the RBI and the SBI for alleged irregularities in import of goods against remittances made from India. The Directorate of Enforcement had issued a show cause notice on Shri Moolrajani's Firm, Vikas Watch Manufacturing Industries on that account.

7. According to the appellant, his client, Shri Moolrajani had submitted all evidence about the import to the authorities concerned AT-31072009-20.doc and yet the cases against his Firm had not been closed. He has alleged that an order was made by the Assistant Director of Enforcement which went even beyond the show cause notice issued by the Directorate of Enforcement stating that the rate of foreign exchange mentioned by the Department of Customs on the Bill of Entry and on the postal receipt did not match with the remittance in foreign exchange sent through bank. According to the appellant, "Every one know rate of Remittances in foreign exchange sent through Bank, is based on daily to daily rate, which can not match with the rate of foreign exchange mentioned by customs on Bill of Entries and Postal Receipts, because of customs Department use average Rate of foreign exchange of the month to calculate the Custom Duty on the goods Imported by the Importer which is not for the purpose of sending remittance to the Seller.

The Custom's Bill of Entries and Postal Receipt having the month's average rate of foreign exchange mentioned on them by the custom Department, are not the authentic documents to match with the daily to daily foreign exchange Remittance sent through Bank."

8. It was in this background that the appellant demanded the information requested through his RTI-application dated 08.10.2008.

9. It is the appellant's contention that since the information he was wanting to have, related to Foreign Exchange Regulation Act, respondents were not at-all right in advising him to approach the Reserve Bank of India and the Customs Department if he wanted to have the requested information.

10. It is his claim that the Directorate of Enforcement had violated human rights of his client and the matter which he had brought up related to life and liberty of his client, Shri Moolrajani. He, therefore, demands that the requested information be directed to be released by the Directorate of Enforcement.

Decision:

11. It is obvious that the Directorate of Enforcement as well as the Reserve Bank of India and the State Bank of India had initiated action against the client of this appellant in a matter of import of goods against remittance of foreign exchange made from India. It is the AT-31072009-20.doc appellant's belief that his client was being unnecessarily harassed and being maliciously proceeded against by multiple public authorities including the Directorate of Enforcement. One point which appears to be at the heart of the dispute is exchange rates at which remittances were made and goods were to be imported by the client of this appellant. The appellant's purpose now is to force the Directorate of Enforcement to indicate the exchange rate on the basis of which they were taking action against his client in order to build up his defence.

12. It is clearly a dispute between the client of this appellant and the public authorities, one of which is the Directorate of Enforcement. It is seen that appellant has attempted to engage the Directorate of Enforcement into a dialogue about the basis of their action, through these RTI-proceedings. This is impermissible under the provisions of the RTI Ac as it goes beyond the scope of Section 2(f).

13. Apart from the above, the Directorate of Enforcement is not the agency which maintains exchange-rate-related details for any given period of time. There are other public authorities engaged in these operations. Respondents, therefore, rightly advised the appellant to approach public authorities who held the requested information under Section 2(j) and Section 6(1)(a) of the RTI Act.

14. The appeal, therefore, fails. Closed.

15. Copy of this direction be sent to the parties.

(A.N. TIWARI) INFORMATION COMMISSIONER AT-31072009-20.doc