

Designated Appellate Authority : First Appellate Authority
Postal Address : The Joint Commissioner of Income Tax
Central Range 1, Room No 308, New Building
46, Mahatma Gandhi Road
Chennai – 600 034

Date : 18/12/2012

Name and Address of the appellant : **Anil Bairwal,**
National Coordinator,
Association for Democratic Reforms

Name and address of the PIO : **Shri C Murugesan**
Assistant Commissioner of Income Tax
Central Circle 1(2)(i/c) & CPIO, Chennai - 34

Date of submission of RTI request : **13/08/2012**

Date of payment of Additional fee (if any) : **None**

Particulars of the order appealed against:

That the information sought by the appellant cannot be provided as the circle with which the IT Returns are filed is under the Directorate General of Income-Tax (investigation) which is not under the purview of the RTI Act according to the notification published in the Gazette of India on the 27th March, 2008 (Annexure-1)

Brief facts of the case:

This is with reference to my RTI application No: ADR04/RTI/ACIT-DMDK/01 dated 13-08-2012 asking for copies of all pages of the IT returns filed by DMDK Party for the Assessment years 2003-04, 2004-05, 2005-06, 2006-07, 2007-08, 2008-09, 2009-10, 2010-11 and 2011-12. A copy of the above mentioned RTI application filed on 13/08/2012 is attached herewith. (Annexure-2)

As per the reply from the CPIO in letter No: ACIT 1(2)/RTI/2012-13 dated 10/12/2012, I was informed that the said information could not be provided as the Directorate General of Income Tax (Investigation), under which Central Circle 1(2) functions, does not come under the RTI Act, 2005.

About the Appellant:

Anil Bairwal is part of Association for Democratic Reforms (ADR) which works for improving governance, democratic, political and electoral process in the country. Earlier also, ADR had filed a Public Interest Litigations (PIL) in Delhi High Court which resulted in the landmark and historic judgment of Supreme Court (March 13, 2003) making it mandatory for candidates contesting elections of State Assemblies and Parliament to disclose their criminal and financial antecedents, by way of a sworn affidavit to be filed as an essential part of the nomination form.

Also, based on a RTI application filed by ADR to get Income Tax details of the Political Parties, the Information Commission vide its order number *CIC/AT/A/2007/01029 & 1263-1270*; *Date of Decision: 29.04.2008* directed the public authorities (Income Tax Departments) holding Income Tax returns of the political parties to make them available to the appellant. (Annexure-3)

Grounds for Appeal:

1. Section 24 of the RTI Act, 2005 states that

“Act not to apply in certain organizations.-

(1)Nothing contained in this Act shall apply to the intelligence and security organisations specified in the Second Schedule, being organisations established by the Central Government or any information furnished by such organisations to that Government:

PROVIDED that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub- section:”

One of the main purposes behind requesting for information on the IT Returns is for the public scrutiny of the finances of these political parties as a way to bring in transparency and combat corruption. The Central Information Commission vide its order number CIC/AT/A/2007/01029 & 1263-1270; Date of decision: 29/04/2008 stated that:

*“The question that additionally needs to be asked is **whether the avowed purpose of the RTI Act**, as set out in its Preamble — **to combat corruption** — is being achieved by allowing the finances of the political parties to remain beyond public scrutiny or even public view. There is now widespread concern about a hyphenated relationship developing between party finance and political corruption. The lack of openness and transparency in party finance is matched by the lack of adequate State regulation of such finance”*

2. The information sought is in the larger public interest and aims at only receiving the Income Tax returns of the political party, DMDK. In fact, **the Central Information Commission vide its order number CIC/AT/A/2007/01029 & 1263-1270; Date of decision: 29/04/2008 directed the public authorities (Income Tax Departments) holding Income Tax returns of the political parties to make them available to the appellant.** It passed the judgement stating that the tax returns of political parties were to be made public and also directed the authorities to furnish copies of the IT returns of the parties to the public.

The Commission in its order said that:

“In this case, the information asked for is available with the public authority, i.e. Income Tax Department and is asked for by a citizen. The information relates to various political parties and has been provided by them to a Public Authority in obedience to the provisions of law.”

.....

“ That public interest is unmistakably present is evidenced not only in the context of the pronouncements of the Apex Court but also the recommendations of the National Commission for the Review of the Working of the Constitution and of the Law Commission.”

3. Also, in one of the judgements of CIC (CIC/DS/A/2011/000666 Dated 02/11/2011), in response to the complaint by the appellant (Association for Democratic Reforms), **a show-cause notice was issued to the PIO, Kozhikode for not providing the IT returns of a political party as requested by the appellant.** (Annexure-4)

The Commission in its order said that:

“The Commission expresses surprise at the manner in which the CPIO and the first Appellate Authority while being in the full knowledge of the decision of the Central Information Commission dated 29 April referred to above have chosen to ignore it”

.....

“Through this order notice is issued to the CPIO under provisions of Section 20(1) to show cause why penalty should not be imposed upon him for mala-fidely denying the request for information and knowingly obstructing the furnishing of information”

4. It should also be considered that the information requested for would not in any way or means hamper the investigation procedures of the department.

Since political parties are working in the public domain and using public funds, it hence proves that the RTI and this First Appeal is in the larger public interest. Therefore, as per the directions of the Central Information Commission, the information sought by the appellant is clearly to be made available under the Right to Information Act.

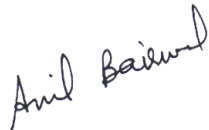
Prayers or relief sought and grounds thereof:

Based on the above mentioned judgement of the Central Information Commission, the appellant has already sought information pertaining to Income Tax Returns of various Political Parties from Income Tax Department and has been provided the same for a number of political parties.

Hence keeping in mind the above grounds for appeal and the fact that this information is clearly to be given under RTI as per the order of Central Information Commission, I request you to kindly direct the CPIO concerned to provide the requested information to the undersigned at the earliest.

I hereby declare that the aforementioned facts are true to the best of my knowledge.

Appellant's signature



Anil Bairwal
Association for Democratic Reforms
Table No 4, "Kiwaniis Centre", 4th Floor,
B-35, Qutub Institutional Area, New Delhi-110016
Landmark: Near Rockland Hospital
Phone – 011-65901524

Enclosures:

- Annexure 1:** Copy of the letter from the concerned CPIO
- Annexure 2:** Copy of the original RTI Application
- Annexure 3:** Copy of the CIC Judgement: *CIC/AT/A/2007/01029 & 1263-1270*
- Annexure 4:** Copy of the CIC Judgement: *CIC/DS/A/2011/000666*



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FIRST APPELLATE AUTHORITY(Under RTI ACT)
OFFICE OF THE JOINT COMMISSIONER OF INCOME TAX,
CENTRAL RANGE - I
NO 46 MAHATMA GANDHI ROAD CHENNAI - 600034

No.CR.I/ RTI/2012-13

Date: 08.01.2013

ORDER U/S 19(6) OF THE RIGHT TO INFORMATION ACT, 2005

The Central Public Information Officer (CPIO), O/o The Central Circle – I(2), Chennai vide his order dated 18.9.2012 had rejected the application filed under Right to Information Act, 2005 by Shri Anil Bairwal for providing certain information in the case of M/s. Desiya Murpokku Dravida Khazhagam.

2. Shri Anil Bairwal filed an appeal vide No.ADR 04/ Appeal/DMDK/ 18.12.2012 with the Appellate Authority, i.e. O/o The JCIT, Central Range – I, Chennai, 121, Aayakar Bhawan, I Floor, Nungambakkam, Chennai – 34, received on 27.12.2012.

3. It is represented by him that the Central Information Commission vide its order No.CIC/AT/A/2007/01029x1263-1270 dated 29.4.2008 has held that the public authorities holding information regarding income tax returns of political parties shall make them available to the Applicant. The appellant further brought to notice that the CIC has reiterated its earlier decision in the judgement delivered vide CIC/DS/A/2011/000666 dated 2.11.2011.

4. In view of the above mentioned decision by the Hon'ble CIC which dealt the issue of supply of information of returns of income filed by the political parties, the CPIO is hereby directed to provide the information that is requested by the Appellant with regard to the copies of IT returns filed by DMDK for the

Asst. Year 2003-04 to 2011-12, if the same are available with him within 15 days from the receipt of this order u/s.19(6) of the RTI Act.

5. While providing the information, the CPIO should ensure that charges if any payable by the appellant as per RTI Act shall be collected and the A.O. should ensure that PAN of the assessee should not be disclosed to the Appellant as held by the Hon'ble Central Information Commission vide Order No. (i). CIC/DS/A/2011/000666 dated 2.11.2011 and (ii). CIC/80/A/2007/01029 and 1263-1270 dated 29.4.2008.



[Handwritten signature] 8/1/13

(K. GOPALA KRISHNA)
First Appellate Authority under RTI Act
O/o The Joint Commissioner of Income Tax
Central Range-I(i/c), Chennai

To

Shri Anil Bairwal,
Association for Democratic Reforms,
Table No.4, B 1/6, Hauz Khas,
New Delhi – 110 016.

Copy to:- The CPIO, O/o the Deputy Commissioner of Income Tax,
Central Circle – I(2), Chennai.