

केन्द्रीय सूचना आयोग  
Central Information Commission  
बाबा गंगनाथ मार्ग, मुनिरका  
Baba Gangnath Marg, Munirka  
नई दिल्ली, New Delhi – 110067

File No: CIC/DGSTX/A/2023/130359

V Bethuran

.....अपीलकर्ता/Appellant

VERSUS

बनाम

PIO,  
O/o the Commissioner of CGST &  
Central Excise, Central Revenue Building,  
No.4, Lal Bahadur Shastri Road, Bibikulam,  
Madurai – 625002

....प्रतिवादीगण /Respondent

Date of Hearing : 27.09.2024

Date of Decision : 03.10.2024

INFORMATION COMMISSIONER : Vinod Kumar Tiwari

**Relevant facts emerging from appeal:**

RTI application filed on : 31.01.2023  
CPIO replied on : 08.02.2023  
First appeal filed on : 07.04.2023  
First Appellate Authority's order : Not on record  
2nd Appeal/Complaint dated : 10.07.2023

**Information sought:**

The Appellant filed an RTI application dated 31.01.2023 seeking the following information:

*"1. Vadamalayan hospital running at No 9A Vallabai Road Chokikulam Madurai district. Vadamalayan hospital's GST No. GSTIN.33AACCV7455RIZM. Please gives me the information of GST paid details of vadamalayan hospital from 2007 to 2022. -"*

The CPIO furnished a reply to the Appellant on 08.02.2023 stating as under:

*"In this regard, it is informed that the desired information is not available with this office. The same may be available with the CPIO of the Office of the Assistant / Deputy Commissioner of CGST and Central Excise, Madurai II Division.*

*Hence, your application is being forwarded to the CPIO of Office of the Assistant / Deputy Commissioner of CGST and Central Excise, Madurai II Division, in terms of Section 6(3) of the Right to Information Act, 2005 for furnishing the required information directly to you."*

Being dissatisfied, the appellant filed a First Appeal dated 07.04.2023. The FAA order is not on record.

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

**Relevant Facts emerged during Hearing:**

The following were present:-

**Appellant:** Present through video conference.

**Respondent:** Shri Rafiq Hasan, CPIO, appeared through video conference.

The appellant *inter alia* submitted that information sought was not provided by the respondent till the date of hearing.

The respondent while defending their case *inter alia* submitted that similar information was sought by the appellant in another RTI application dated 28.02.2023 which was replied that GST implemented w.e.f. 01.07.2017, whereas the appellant has sought information from 2007. Hence, they expressed their inability to provide the information. Besides, they also submitted that GST return details could not be furnished as per section 158 (1) of CGST Act, 2017.

## Decision:

The Commission after adverting to the facts and circumstances of the case, hearing both the parties and perusal of the records, noted that as per the submission of the respondent the appellant has filed another RTI application dated 28.02.2023 seeking similar information which was replied that GST implemented w.e.f. 01.07.2017, whereas the appellant sought information from 2007. Therefore, they expressed their inability to provide the information. Besides, they also submitted that GST return details could not be furnished as per section 158 (1) of CGST Act, 2017. The appellant may seek the desired information under the said provisions of the CGST Act, 2017.

In this regard, the Commission refers to a decision of Delhi High Court in *W.P.(C) 340/2023 & CM APPL. 1348/2023, Central Public Information Officer vs. Kailash Chandra Moondra*, wherein it has been categorically held that the Right to Information Act, 2005 and Section 138 of the Income Tax Act, 1961 deal with disclosure of information. While Right to Information Act is a general law concerning the disclosure of information by the public authorities, Section 138 of the Income Tax Act is a special legislation dealing with disclosure of information concerning the assesses. Therefore, the Commission agrees with the stand taken by the Respondent in denying the information. The relevant extract of the aforesaid Delhi High Court order is reproduced hereinbelow:

*“He places reliance upon a Judgment dated 22.01.2024 passed by this Court in W.P.(C) 10193/2022 in the case of “CPIO/Dy. Commissioner of Income Tax HQ Exemption, New Delhi vs. Girish Mittal” wherein this Court has observed as under:*

*15. Applying the said ratio to the facts of the present case, Section 138 (1)(b) and Section 138 (2) of the IT Act which lays down a specific procedure relating to disclosure of information relating to a third party under the IT Act would override Section 22 of the RTI Act. The information sought for by the Respondent herein is clearly covered by Section 138(1)(b) of the IT Act. The satisfaction of Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner is, therefore, necessary before such information can be divulged. That satisfaction cannot be abrogated to any other authority under a general Act for divulging the information sought for.*

*16. The said judgment has been followed by the Apex Court in Rakesh Kumar Gupta v. Income Tax Appellate Tribunal (ITAT), 2007 SCC OnLine CIC 315.*

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17. In *Chief Information Commr. v. High Court of Gujarat*, (2020) 4 SCC 702, when an issue was raised over furnishing of information of certified copies obtained from the High Court of Gujarat by invoking the provisions of the RTI Act, the Apex Court, while resorting to the Gujarat High Court Rules, has observed as under:

"35. The non obstante clause of the RTI Act does not mean an implied repeal of the High Court Rules and orders framed under Article 225 of the Constitution of India; but only has an overriding effect in case of inconsistency. A special enactment or rule cannot be held to be overridden by a later general enactment simply because the latter opens up with a non obstante clause, unless there is clear inconsistency between the two legislations. In this regard, we may usefully refer to the judgment of the Supreme Court in *R.S. Raghunath v. State of Karnataka* [*R.S. Raghunath v. State of Karnataka*, (1992) 1 SCC 335: 1992 SCC (L&S) 286] wherein, the Supreme Court held as under: (SCC pp. 356-57, para 38).

"38. In *Ajoy Kumar Banerjee v. Union of India* [*Ajoy Kumar Banerjee v. Union of India*, (1984) 3 SCC 127: 1984 SCC (L&S) 355], *Sabyasachi Mukharji, J.* (as his Lordship then was) observed thus : (SCC p. 153, para 38).

"38. ... As mentioned hereinbefore if the Scheme was held to be valid, then the question what the general law is and what is the special law and which law in case of conflict would prevail would have arisen and that would have necessitated the application of the principle "generalia specialibus non derogant". The general rule to be followed in case of conflict between the two statutes is that the later abrogates the earlier one. In other words, a prior special law would yield to a later general law, if either of the two following conditions is satisfied:

"(i) The two are inconsistent with each other.

(ii) There is some express reference in the later to the earlier enactment."

If either of these two conditions is fulfilled, the later law, even though general, would prevail."

(emphasis supplied)

18. Applying the said analogy to the facts of the present case, Section 138(1)(b) of the IT Act which specifically states that information relating to an assessee can only be supplied subject to the satisfaction of Principal Chief Commissioner or Chief

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*Commissioner or Principal Commissioner or Commissioner, as the case may be, would prevail over Section 22 of the RTI Act.*

*19. The issue raised herein has been settled by a Bench of three Member Bench of the CIC which, in the opinion of this Court, is binding on the Bench which has passed the impugned order. A Bench of three Commissioners of the CIC in G.R. Rawal v. Director General of Income Tax (Investigation), 2008 SCC OnLine CIC 1008, while considering the very same issue has observed as under:*

*"15. Thus, both the Right to Information Act, 2005 and Section 138 of the Income Tax Act, 1961 deal with disclosure of information. While Right to Information Act is a general law concerning the disclosure of information by the public authorities, Section 138 of the Income Tax Act is a special legislation dealing with disclosure of information concerning the assesses. This Commission in "Rakesh Kumar Gupta v. ITAT, decided on 18th September 2007 decided by a Full Bench, has dealt with the issue of applicability of special law to the exclusion of the general law. The Commission has relied upon the Hon'ble Apex Court's decision in "Chandra Prakash Tiwari v. Shakuntala Shukla — AIR 2002 SC 2322". The following two paragraphs from the said decision of the Commission are pertinent and quoted below:*

*37. A special enactment or Rule, therefore, cannot be held to be overridden by a later general enactment or simply because the latter opens up with a nonobstante clause unless there is clear inconsistency between the two legislations — one which is later in order of time and the other which is a special enactment. This issue came again for consideration before the Hon'ble Apex Court in Chandra Prakash Tiwari v. Shakuntala Shukla — AIR 2002 SC 2322 and the Hon'ble Supreme Court quoted with approval the Broom's Legal Maxim in reference to two Latin Maxims in the following words:*

*"It is then, an elementary Rule that an earlier Act must give place to a later, if the two cannot be reconciled - lex posterior derogate priori - non est novum ut priores leges ad posteriors trahantur (Emphasis supplied) - and one Act may repeal another by express words or by implication; for it is enough if there be words which by necessary implication repeal it. But repeal by implication is never to be favoured, and must not be imputed to the legislature without necessity, or strong reason, to be shown by the party imputing it. It is only effected where the provisions of the later enactment are so inconsistent with, or repugnant to, those of the earlier that the two cannot stand together<sup>2</sup>; unless the two Acts are so plainly repugnant to each other that effect cannot be given to both at the same time a repeal cannot*

*be implied; and special Acts are not repealed by general Acts unless there be some express reference to the previous legislation, or a necessary inconsistency in the two Acts standing together, which prevents the maxim generalia specialibus non derogant (Emphasis supplied) from being applied. For where there are general words in a later Act capable of reasonable application without being extended to subjects specially dealt with by earlier legislation, then, in the absence of an indication of a particular intention to that effect, the presumption is that the general words were not intended to repeal the earlier and special legislation, or to take away a particular privilege of a particular class of persons."*

*38. In the aforesaid case, the Hon'ble Apex Court also cited with approval an earlier decision in Maharaja Pratap Singh Bahadur v. Thakur Manmohan Dey - MANU/SC/0202/1966, in which it was indicated that an earlier special law cannot be held to have been abrogated by mere implication. That being so, the argument regarding implied repeal has to be rejected for both the reasons set out above."*

*Propriety demanded that the CIC ought to have followed the opinion of the larger Bench, which is binding on it.*

*8. In view of the above, the writ petition is allowed."*

In view of the above observations made by the Hon'ble Delhi High Court and the reply having been given, the Commission finds that appropriate reply has been given by the respondent and intervention of the Commission is not warranted in the matter.

**The appeal is disposed of accordingly.**

**Vinod Kumar Tiwari (विनोद कुमार तिवारी)**  
**Information Commissioner (सूचना आयुक्त)**

Authenticated true copy  
(अभिप्रमाणित सत्यापित प्रति)

**(S. Anantharaman)**

Dy. Registrar  
011- 26181927  
Date

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**Copy To:**

**The FAA, O/o the Commissioner of CGST &  
Central Excise, Central Revenue Building, No.4, Lal  
Bahadur Shastri Road, Bibikulam, Madurai – 625002**



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**Recomendation(s) to PA under section 25(5) of the RTI Act, 2005:-**

Nil

