



**OFFICE OF THE
ASSAM STATE INFORMATION COMMISSION
JONAKEE COMPLEX, PANJABARI, GUWAHATI-781 037**

Case No. : **KP(M).658/2013**
Complainant/ appellant : **Sri Joydev Das,**
Respondent : **Commissioner of Taxes**
Date of hearing : **15-10-2015**
Complaint/ Second : **Shri H.S. Das, IAS (Retd)**
appeal heard by : **Chief Information Commissioner, Assam**

O R D E R

The petitioner Sri Joydev Das as well as the respondent Sri Sandeep Chanda, Superintendent of Taxes, Guwahati Unit-'D' both are present.

The second appeal petition dated 30-9-2013 is again taken up for hearing in continuation of the last hearing on 16-11-2015 , in presence of both the parties.

After perusal of the written statement filed by the respondent on 9-11-2015, wherein he has referred to the orders of various Courts, including Hon'ble Supreme Court in similar cases and also to various Sections of the RTI Act – 8(1)(d) , 8(1)(e), 8(1)(j) , Article 21 of the Constitution of India and Section 102 of the Assam Vat Act, 2003 together with the RTI request of the applicant, it is seen that the information sought for belongs to the category of third party information. It is also seen from the records that the First Appellate Authority did not hear the first appeal petition dated 16-9-2013. Nor did the PIO follow the procedure as laid down under Section-11 of the RTI Act, which relate to 3rd party information.

On the other hand the written statement dated 12-11-2015 submitted by the petitioner contained allegation of possible irregularities in the assessment of Entry Tax of M/S All Assam Wholesale Fish Traders' Association. In course of today's hearing the petitioner showed some documents in support of his allegation of suspected irregularities in the aforesaid assessment.

In view of the above the Commission directs, as follows:-

- 1) The PIO of the Commissioner of Taxes will give a written notice to M/S All Assam Wholesale Fish Traders' Association within 5 days from the date of this order informing him of the information sought for by the petitioner under RTI Act, 2005, and asking him to make a submission in writing ,as to whether the information should be disclosed or not, stating the grounds therefor and thereafter take a decision under the proviso under Section 11(1) of the RTI Act, 2005. In arriving at a decision the PIO will follow the procedure as laid down in the following sub-sections of Section 11 of the RTI Act, 2005. In his decision/ notice under Section-11(3) of the RTI Act, the PIO shall clearly bring out the public interest that will be hurt by non-disclosure of the information as well as any possible harm or injury that may be caused to the interest of third party by disclosure of the information.
- 2) This Commission also directs the petitioner/appellant to submit further justification with supporting documents , if any, in support of his suspicion and allegation that some irregularities have taken place in the assessment of Entry Tax of the above-mentioned assessee during the period from 1-10-2001 to 31-5-2010, and to explain how non-disclosure of the sought for information will be detrimental to public interest.

Fix the next date of hearing on **29-12-2015 at 1.30 P.M**

Sd/-
(H. S. Das)
Assam State Chief Information Commissioner,
Panjabari, Guwahati

Authenticated true copy.

**Sd/-
Secretary & Registrar
Assam State Information Commission**

Memo No. KP(M).658/2013 -A

Dtd. 19-11-2015

Copy to:,

1. Sri Sandeep Chanda, Superintendent of Taxes & SPIO, in the office of the Commissioner of Taxes, Unit –‘D’ for information and necessary action.
2. Sri Joydev Das , Ambari, Fatasil, K.K. Road, Near Mayur Krishna Cinema Hall, House No.-16, Guwahati-25 for information.
3. Computer Section for uploading in the Website.
4. Office File.

**Secretary & Registrar
Assam State Information Commission**