

**Office of the
1st Appellate Authority under Right to Information Act, 2005
Addl. Commissioner of Income-tax-7(2),
R.No. 626, Aaykar Bhavan, Mumbai.**

Name & address of the Appellate Authority : Vijay Varma,
Addl. CIT-7(2), R.No.626,
Aaykar Bhavan, Mumbai.

Name & address of the CPIO : Amit Kumar Singh,
Asstt. Commissioner of Income-tax-
7(2), R.No. 624, Aaykar Bhavan,
Mumbai.

Date of submission of request under RTI Act, 2005 : 26-02-2010

Date of receipt of request by the CPIO u/s.6(3) of the RTI Act, 2005 : 25-03-2010

Date of order appealed against : 07-04-2010

Date of filing appeal u/s.19(1) : 13-05-2010

ORDER U/S.19(1) OF THE RIGHT TO INFORMATION ACT, 2005

The appellant Shri Anil Bairwal, National Coordinator, Association for Democratic Reforms, filed an RTI application dated 22-02-2010 before the CPIO in the office of CCIT, Bhopal on 26-02-2010. The said application was forwarded u/s.6(3) of the RTI Act, 2005 to ITO-7(2)(1) who in turn forwarded it to the concerned CPIO i.e. ACIT-7(2), Mumbai.

2. The information sought by the appellant is as under :-

"Kindly provide following information related to the below mentioned

Member of Parliament (MP) from the current Lok Sabha :-

S. No.	Name of the MP	Father's/Husb and's name	Dt. of birth	Party	State (Constituency) name	Permanent Address	Present Address
1	Shri Jyotiraditya Madhavrao Scindia	Lt. Shri Madhavrao J. Scindia	1/1/1971	INC	MP (Guna)	Jai Vilas Palace, Lashkar, Gwalior-470004, MP, Tel.2322390, 2321101 Fax. 230411	27, Safdarjung Rd, New Delhi-110011, Tel.(011) 2379330, 23793301 Fax (011) 23013148

- 1) *Whether the above mentioned MP has filed his IT returns for all the five years (2004-2009).*
- 1a) *Please provide the years which he has not filed his returns.*
- 1b) *Please provide details of the IT return & assessment orders for all the years for which he has filed."*
3. CPIO wrote a letter to Shri Jyotiraditya Madhavrao Scindia on 31-03-10 u/s.11(1) of the RTI Act, 2005 as the appellant was seeking third party information.
4. The CPIO passed an order on 07-04-2011 declining to disclose the information by invoking Sec.8(1)(j) of the RTI Act holding that information sought has no relationship to any public activity or interest and it does not fall under the exceptions provided in the said Section.
5. As evident from the above, the appellant has sought the personal information of Shri Jyotiraditya Madhavrao Scindia, Hon'ble Member of Parliament, which has been furnished to the Income Tax Department. The said information falls both u/s.8(1)(e) & 8(1)(j) of the RTI Act. U/s.8(1)(e) information can be disclosed only when there is a satisfaction of CPIO that larger public interest warrants the disclosure of such information. U/s.18(1)(j) the information cannot be disclosed if the disclosure has no relationship to
*any public activity or
interest or
it would cause unwarranted invasion of the privacy of the individual
unless the CPIO is satisfied that larger public interest justifies the
disclosure of such information.*
6. From the reading of Sec.8(1)(e) & 8(1)(j), it is apparent that heavier onus has been put on the appellant u/s.8(1)(j) than as compared to Sec.8(1)(e). U/s.8(1)(e) the appellant is required to establish that larger public interest warrants disclosure of information. U/s. Sec.8(1)(j) the appellant has to establish that the disclosure has relationship to any public activity or interest and it does not cause unwarranted invasion of the privacy of the individual. If any of these conditions is not met, then the appellant has to establish that larger public interest justifies the disclosure of such information.

7. It has been held in several cases that the provisions of RTI Act cannot be allowed as a tool for fishing operations in the hope that someday it would net a fish. There are several judgements which deal with the disclosure of income tax returns and assessment orders of individuals to RTI applicants. It is noticed that CPIO has passed a summary order without giving any detailed reasons for his findings. From a copy of the application dated 22-2-2010 it is noticed that even the said application does not attempt to establish how larger public interest would be served by disclosure of this information. Therefore, the order of the CPIO is a non speaking order on this issue.

8. Without prejudice to the same, it is noticed that no valid reply to the notice dtd. 31-03-2010 issued by CPIO u/s.11(1) of the RTI Act has been filed. There is one letter dtd. 01-04-2010 on the letter head of "M/s. Deloitte Haskins & Sells" Chartered Accountants which has been filed in the office of CPIO on 06-04-2010. The said letter objects to disclosure of information and claims exemption u/s.8(1)(j) of RTI Act, 2005 on behalf of Shri Jyotiraditya M. Scindia. However, the said letter cannot be accepted as a valid submission on the part of third party u/s.11(1) for the following reasons :-

- (1) Chartered Accounts are Authorised Representatives only for the proceedings under the Income Tax Act in view of the provisions u/s.288 of the I.T. Act. They are not Authorised Representative under the RTI Act, 2005.
- (2) The letter dtd. 01-04-2010 has not been signed by anyone. In place of signature, name of the firm i.e. "Deloitte Haskins & Sells" has been written by hand. Therefore, technically it is an unsigned letter and not admissible u/s.11(1) of the RTI Act.

9. In view of the same it is necessary that valid objections of Shri Jyotiraditya M. Scindia are considered by the CPIO before passing an order under RTI Act. This is necessary in view of principles of natural justice as well. Therefore, the matter is restored to CPIO with directions that he should issue a fresh notice u/s.11(1) to Shri Jyotiraditya M. Scindia, explaining why letter dtd. 01/04/10 (Supra) is not admissible as valid reply, and then pass a fresh order on the issue dealing with the objections raised by him and the

contentions raised by the appellant. The appellant should also be asked to establish how the case falls under exception provided u/s.8(1)(e) and 8(1)(j).

10. Since the information has been sought on three issues out of which the first two issues refer to the facts whether the returns have been filed or not and the third issue deals with the details of returns and assessment orders, the CPIO should take decision regarding each of the request separately after considering the latest decisions on this issue and reply u/s.11(1).

(VIJAY VARMA)

Addl. Commissioner of Income-tax-7(2),
Mumbai.

Copy to : (1) CPIO, Shri Amit K. Singh, ACIT-7(2), Mumbai.

(2) Shri Anil Bairwal, Appellant.



Addl. Commissioner of Income-tax-7(2),
Mumbai.

विजय बर्मा
अतिरिक्त आयकर आयुक्त मुंबई
इलाका 7 (2)