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22. Sailja + Ajit  
Singh RTI Response



**Office of the  
Assistant Commissioner of Income Tax  
Circle 40(1), Room No. 303, 3<sup>rd</sup> Floor  
Mayur Bhawan, Shanker Market, Connaught Place  
New Delhi - 110001**

F.No. ACIT/Cir-40 (1)/ND/RTI-AB /2009-10/

Dated: 07.04.2010

To  
Shri Anil Bairwal  
Association for Democratic Reforms  
B-1/6, Hauz Khas, New Delhi-110016

Sir,

Subject: **Order under section 7 of the RTI, Act 2005** in reference to application dated 22.02.2010 of Shri Anil Bairwal, Association for Democratic Reforms, B-1/6, Hauz Khas, New Delhi-110016, New Delhi under RTI Act, 2005.

Kindly refer to your application dated 22/02/2010 submitted on the above subject, forwarded/transferred by the CPIO/Income Tax Officer ( Hqrs-Pers.) & (RTI), office of the CCIT, Delhi-I, New Delhi vide letter No F.No. P-371/24/RTI Act, 2005/843/2009-10/2146 dated 26<sup>th</sup> February, 2010 to Office of CPIO/ITO (Hqrs), Office of the CIT-XIV, Mayur Bhawan, New Delhi and the same was received by this office on 15<sup>th</sup> March 2010 through the Addl. CIT, Range-40 vide their letter F No. Addl. CIT/R-40/RTI/2009-10 dated 04<sup>th</sup> March 2010.

The following Members of Parliament are assessed in this jurisdiction i.e. Circle 40(1), New Delhi -

- 1) Kumari Selja
- 2) Shri Ajit Singh

As per your RTI application, the information sought by you in reference to the above mentioned assessee is as follows:-

1. Whether the above mentioned MPs who fall in your jurisdiction have filed their IT Returns for all the five years ( 2004 to 2009).
- 1(a). Please provide the years for which these MPs have not filed their returns.
- 1 (b). Please provide details of IT Returns and Assessment orders for all the years for which they have filed their returns.

As the information sought by you in respect of Kumari Selja and Shri Ajit Singh is third party information, notices before such disclosure were sent on 26.03.2010 to the above mentioned third parties under section 11 of the Right to Information Act, 2005. In response to the same, the third parties submitted their replies stating that the information sought under the said RTI application relates to personal information, the disclosure of

which has no relationship to any public activity or interest, and the disclosure of such information would cause unwarranted invasion of his privacy.

- ❖ Kumari Selja in her submission stated that there is no public interest at all much less the fact that public interest in disclosure outweighs in importance any possible harm or injury to the interest of assessee. It was submitted that in absence of any public interest in seeking the aforesaid information, there remains no justification much less any valid justification for the applicant to seek aforesaid information under RTI Act, 2005.

It was further submitted that in absence of public interest, information as desired may kindly not be furnished and also that since the information sought by the applicant relates to personal information disclosure of which has no relationship to any public activity and interest or which would caused unwarranted invasion of the privacy of the assessee, the disclosure of the aforesaid information be not made as it is specified exempt under Clause (j) of Sub-section (1) of section 8 of the Act. Likewise, the information sought to be provided is also exempt under section 8 (1) (e) of the RTI Act.

- ❖ Shri Ajit Singh vide his reply dated 03<sup>rd</sup> April 2010 submitted that applicant Shri Anil Bairwal has failed to show any reasonable or plausible reason as to why does he need such personal information and that the desired information by the applicant cannot be provided to him on the following grounds :-

1. The information sought by the applicant Shri Anil Bairwal falls within the exemption from disclosure under section 8(1) (j) of the RTI Act, 2005.

2. It has been held by the CIC in G.R. Rawat, Meghani Nagar, Ahmadebad v/s DG of Income Tax (Investigation) Ahmadebad (2008) 2 ID 82 (CIC, Delhi) as under,

“that assessment details are definitely personal information concerning some individual or legal entity. Disclosure of assessment details may result in an undue invasion to the privacy of an individual. Disclosure of such details can not be permitted unless there is overriding public interest justifying disclosure.”

It was submitted that Income Tax returns filed by assesseees are confidential information, which include details of commercial activities and relate to third party and hence, cannot be divulged unless and until some public purpose is being solved.

3. That the applicant has also failed to state any reason as to how this information is related to any public activity or interest, also there is no justification furnished by him as to how this information is going to serve any public purpose or how disclosure of this confidential information is in any public interest. That the Hon'ble Supreme Court in India in D. N. Thaware vs of Maharashtra and Others (2005) SCC 590 has defined 'Public Interest' as under:

“ A matter of public or general interest ‘ does not mean that which is interesting as gratifying curiosity or a love of information or amusement; but that in which a class of the community have a pecuniary interest, or some interest by which their legal rights or liabilities are affected.”

4. That the Black's Law Dictionary (6<sup>th</sup> Edition) also defines 'public interest' as under:-

“Something in which the public, the community at large, has some pecuniary interest, or some interest by which their legal rights or liabilities are affected. It does not mean anything so narrow as mere curiosity' or as the interests or particular localities, which may be affected by the matters in question”

5. Moreover Hon'ble Supreme Court of India in Janta Dal vs V.H.S. Chaudary (1992) 4 SCC 305 observed that the purpose of the 'public interest' is-

“ To wipe out the tears of the poor and needy, suffering from violation of their fundamental rights, but not for personal gain or private profit of political motive or any oblique consideration.”

That in view of the above stated provisions of Law and authorities on the said subject, I, Ajit Singh hereby request you not to disclose any of exclusive personal information wrt my Income Tax Returns, available with your office, to the applicant Shri Anil Bairwal, Association of Democratic Reforms, B-1/6, Hauz Khas, New Delhi-110016 as in any manner, it is not going to serve any public purpose.

**The information sought under R.T.I. Act, 2005 and replies received in response to notice/letter issued u/s 11 of the RTI Act, 2005 have been considered and it has been found that there is no overriding public interest involved in the matter and it relates to the personal information of the assesseees. Further, the third parties have raised objections against the disclosure of the information sought by the applicant.**

Since, the required information relates to personal information, the disclosure of which has no relationship to any public activity or interest, the same is specifically exempted from disclosure in accordance with Section 8 (1) (j) of the Right to Information Act, 2005 as the disclosure of such information would cause unwarranted invasion of privacy of the assesseees. Hence, the same cannot be provided under the RTI Act, 2005.

**The following decisions of the CIC may be referred to in this regard:-**

**In the case of Shri Sanjay Singh in appeal No. 60/IC (A)/2006 dated 12/06/2006 vide F.No. CIC/MA/A/2006/00187, the Hon'ble CIC on the issue of supply of copies of services book/personnel file of a retired Govt. Officer, has observed as under:-**

*The appellant had asked for access to file/record which related to personal information of another person, the disclosure of which is barred u/s 8(1)(j). There is no overriding public interest involved in disclosure of personal information.*

Your RTI application dated 22-02-2010 received in this office on 15-03-2010 may be treated as disposed off in respect of the information sought about Kumari Selja and Shri Ajit Singh. In case you are not satisfied with the reply/information given herein above and wish to file an appeal under the RTI Act, you may file an appeal before the Appellate Authority within a period of 30 days from the date of receipt of this order. The address of the Appellate Authority is as under:

The Additional Commissioner of Income Tax  
Range-40, Room No.301, Mayur Bhawan  
Near- Shankar Market, Connaught Place  
New Delhi

Yours faithfully



(MONIKA RANA)

CPIO/Assistant Commissioner of Income Tax  
Circle 40(1), Room No. 303, Mayur Bhawan, New Delhi

MONIKA RANA  
Asstt. Commissioner of Income Tax  
Circle-40(1), R. No.-303, 3rd Floor,  
Mayur Bhawan, New Delhi

Copy to the following for information please :

1. The CIT-XIV, New Delhi for information.
2. The Addl. Commissioner of Income Tax, Range-40, New Delhi for information
3. Shri Ajit Singh, Member of Parliament, 12, Tughlak Road, New Delhi.
4. Kumari Selja, Member of Parliament, 3, Sunehari Road, New Delhi



C.P.I.O/A.C.I.T, Circle 40(1), New Delhi

MONIKA RANA  
Asstt. Commissioner of Income Tax  
Circle-40(1), R. No.-303, 3rd Floor,  
Mayur Bhawan, New Delhi



*Kumari  
Sailin +  
Airtel  
1st Appeal  
Proposed*

*file second appeal for this*

Office of the  
Addl. COMMISSIONER OF INCOME TAX, RANGE-40  
Room No.301, Mayur Bhavan, Connaught Circus,  
New Delhi-110001  
☎ 011-23414764

F.No.Addl.CIT/R-40/RTI/10-11/ 66

Dated: 25/5/10

**ORDER U/S 19 OF THE RTI ACT, 2005**

Name of the Applicant	Sh. Anil Bairwal
Address	National Coordinator, Association for Democratic Reforms, B-1/6, Hauz Khas, New Delhi-110016.
Appeal Order u/s	u/s 19 of the RTI Act, 2005
Date of application	10/05/2010
Dater of Order	25/05/2010

Vide application dated 06/05/2010 received in this on 10/05/2010, applicant Sh. Anil Bairwal has filed first appeal against the order dated 07/04/2010 of ACIT, Circle 40(1), New Delhi who is the CPIO concerned.

I have gone through the appeal petition, a copy of the applicant's petition dated 22/02/2010 before the CPIO and a copy of the CPIO's order dated 07/04/2010 enclosed with the appeal petition, diligently. I have perused the averments contained in the appeal petition and the applicant's petition dated 22/02/2010 filed before the CPIO carefully. I do not agree with the averments contained in the appeal petition of the applicant. I find that the order made by the CPIO does not suffer from any infirmity and having regard to the applicant's petition before the CPIO in respect of income tax returns of MPs. The information sought relates to personal information, the disclosure of which has no apparent relationship to any public activity or interest in the facts and circumstances of the case.

Further, reliance is also made to Central Information Commission (CIC)'s following orders:

- i) Sh. Bimal Kanti Datta Vs. Income Tax Department (Appeal No.CIC/AT/A/2008/00599, 600 & 601 dated of decision 23/10/2008
- ii) Mrs. Shobha R. Arora Vs. Income Tax , Mumbai (Appeal No. CIC/MA/A/2006/0022; Decision No.119/IC (A)/2006; date of decision 14/07/2006 and
- iii) Ms. Neeru Bajaj Vs. Income Tax (Appeal No.CIC/AT/A/2006/00644 & CIC/AT/A/2006/00646; date of decision 21/02/2007)

that income tax related details of an assessee cannot be disclosed to a third party as these stand exempted u/s 8(1)(j) and Section 8 (1)(d) of the RTI Act. It is not open to the appellant to demand that he should be allowed access into a private third party information because he wishes to use that information in an ongoing litigation before a court of law. This concept of what appellant describes as 'administration of justice' is far too self-serving to merit consideration.

Further, section 11 of the RTI Act relates to third party information which read as under:-

**"11. Third Party Information**

(1) Where a Central Public Information Officer or a State Public Information Officer, as the case may be, intends to disclose any information or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Central Public Information Officer or State Public Information Officer, as the case may be shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the Central Public Information Officer or a State Public Information Officer, as the case may be, intends to disclose the information or record, or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view taking a decision about disclosure of information:

*Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party.*

(2) Whether a notice is served by the Central Public Information Officer or State Public Information Officer, as the case may be, under sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within ten days from the date of receipt of such notice, be given the opportunity to make representation against the proposed disclosure.

(3) Notwithstanding anything contained in section 7, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within forty days after receipt of the request under section 6, if the third party has been given an opportunity to make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party." {Emphasis Supplied}

(4) The perusal of the above provisions would show that, proviso to sub-section (1) of section 11 of the Act provides that, except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interest of such third party. It is thus evident that, according to the statutory provisions contained in proviso to sub-section (1) of section 11 of the Act, disclosure of third party information is permissible only when public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party.

The CPIO concerned had sent notices to Smt. Kumari Selja, MP and Sh. Ajit Singh, MP on 26/03/2010 u/s 11 of the RTI Act, 2005 being third party seeking their consent on disclosure of details of I.T. Returns and Assessment Orders for all the years for they have filed their returns.

In response to the above notices, the concerned M.Ps requested not to disclose the said information as the same relates to personal information, the disclosure of which has no relationship to any public activity or interest, and the disclosure of such information would cause unwarranted invasion of their privacy.

The applicant in his RTI application relied on the decision of CIC in order No.CIC/AT/A/2007/01029 & 1263-1270 date of decision 29/04/2008 whereby directing the Income Tax Authorities to make available the Income Tax Returns of the Political Parties to the appellant.

The abovementioned decision is only for political parties and not for Member of Parliament or individual.

In the light of the above facts, I find it difficult to persuade myself that the larger public interest justifies the disclosure of such information as is sought, to the applicant. Further, the RTI Act cannot be used as an instrument for initiating tax-evasion enquiries. Income Tax Laws and the CBDT (Central Board of Direct Taxes) instructions have ample provisions for informants to provide tax evasion-related information to the Income Tax Authorities and even be rewarded for it.

Accordingly, upon a careful consideration of all the facts and circumstances of the case and perusal of the CPIO's file which has been called for, I am unable to persuade myself to interfere with the order dated 07/04/2010 of CPIO and ACIT Circle 40(1), New Delhi.



( Rajeev Kumar )  
Addl. Commissioner of Income Tax  
Range-40 New Delhi

Copy to: Sh. Anil Barwal, National Coordinator, Association for Democratic Reforms, B-1/6, Hauz Khas, New Delhi-110016.

Addl. Commissioner of Income Tax  
Range-40 New Delhi