

NAGALAND INFORMATION COMMISSION
Old Secretariat Complex,
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Nagaland, Kohima - 797001.
Tel: 0370-2291041, Fax: 0370-2291774, Website: www.nlsic.gov.in

No. NIC/Appeal-6/2013-14

Dated Kohima, the 8th November, 2013.

Subject: Notice for Hearing on 26th November, 2013 (Tuesday) at 1:00 PM.

WHEREAS under Section 19 of the Right to Information Act, 2005, the Nagaland Information Commission have received a Second Appeal vide No. NSIC/2013/02 dated 21.07.2013 from an appellant, Sri. Soumitra Sengupta, C/o Lt. Abdus Samad Choudhury, House No. 34, Hemgiri Path, South Sarania, Ulubari, Guwahati – 781007, District Kamrup(M), Assam, Mobile No. 9706896033 stating that there was no response/decision received from the First Appellate Authority, Office of the Commissioner of Taxes, Nagaland, Dimapur, to his first appeal dated 16.04.2013 which was filed against the incomplete information received from the Joint Commissioner of Taxes & PIO, Office of the Commissioner of Taxes, Nagaland, Dimapur to the RTI application dated 22.01.2013.

AND WHEREAS, the applicant had earlier submitted a RTI application dated 22.01.2013, addressed to the PIO, Office of the Commissioner of Taxes, Nagaland, Dimapur, alongwith prescribed fees paid through IPO No. 16F 103030 dated 17.01.2013, requesting for information on the following queries which was received by the Sr. Steno-cum-PS to Commissioner of Taxes, Nagaland, Dimapur on 24.01.2013:-

- (1) Name of the bidder to whom RFP NO.CT/MMP-CT/NIC/17/10/CONTD: Supply installation Commissioning Operation & Maintenance of Hardware and Networking equipments was awarded.
- (2) Furnish me the certified copies of Letter of Intent along with Notification of Award Contract issued to the successful bidder duly certified by your department.
- (3) Soft copy of the Pre-Qualified Bid submitted by the successful bidder which is written into a CD. Provide me the copy of the same CD.
- (4) Soft copy of the Technical Bid submitted by the successful bidder which is written into a CD. Provide me the copy of the same CD.
- (5) Soft copy of the Financial Bid with full price details submitted by the successful bidder which is written into a CD. Provide me the copy of the same CD.
- (6) Provide me the names & educational qualification and experience details of the following:
 - (a) Project Managers who are full time stationed at CT Office, Dimapur, Nagaland.
 - (b) Field Engineers who are full time stationed at CT Office, Dimapur, Nagaland.
 - (c) Network Administrators who are full time stationed at CT Office, Dimapur, Nagaland.
- (7) Provide the name and designation of the First Appellate Authority of your department to whom the appeal U/S 19 of the RTI Act, 2005 can be filed if required.

Also a blank IPO No. 16F 103031 dated 17.01.2013 was enclosed alongwith the application so that in the event if the first IPO does not contain the appropriate “Name of the Payee” or is not correct, the blank IPO could be correctly filled up. And in the case, the first IPO is in order the second IPO could be utilized for making part/full payment towards cost of information/documents/CDs or can be returned to the applicant.

AND WHEREAS, on receipt of the RTI application dated 22.01.2013, the Joint Commissioner of Taxes & PIO, Office of the Commissioner of Taxes, Nagaland, Dimapur, had vide letter No. CT/LEG/116/2005/1753 dated 28.02.2013 furnished replies with regard to Queries No. 1 and No. 7, however, with regard to Queries 2, 3, 4, 5 & 6, the PIO stated that the information involves confidential details about third party and, therefore, under section 8 (d), (e), (g) and (j) of the RTI Act, 2005, it cannot be furnished.

AND WHEREAS, on being aggrieved with the reply /decision of the PIO, the applicant preferred First Appeal dated 16.04.2013 which was received by the Public Authority on 20.04.2013.

AND WHEREAS, on receipt of the First Appeal dated 16.04.2013, the Joint Commissioner of Taxes & PIO, Office of the Commissioner of Taxes, Nagaland, Dimapur, had vide letter No. CT/LEG/116/2005/2325 dated 17.05.2013, summoned the applicant(now the appellant) to appear before the Commissioner of Taxes & FAA for hearing of the First Appeal on 03.06.2013 at 12.00 pm in the office chamber of Commissioner of Taxes, Nagaland, Dimapur. And the applicant(now the appellant) had, vide letter No. APP/SMT (NGLD)-13-01-17 dated 03.06.2013, informed his presence for the hearing on 03.06.2013. However, the Joint Commissioner of Taxes & PIO, Office of the Commissioner of Taxes, Nagaland, Dimapur, had vide letter No. CT/LEG/116/2005 dated 03.06.2013 informed the applicant(now the appellant) that the Commissioner of Taxes & FAA was called to attend an emergency Cabinet meeting called by the Nagaland Legislative Assembly on 03.06.2013 and, therefore, the hearing date had to be re-scheduled.

AND WHEREAS, the PIO had, vide letter No. CT/LEG/116/2502 dated 07.06.2013 informed the applicant that the next date of hearing was re-scheduled on 15.06.2013 at 12:00 PM. However, the applicant(now the appellant) had, vide letter No. APP/SMT (NGLD)-13-01-17-A dated 13.06.2013, informed the Joint Commissioner of Taxes & PIO, Office of the Commissioner of Taxes, Nagaland, Dimapur, that he would not be able to attend the scheduled hearing on 15.06.2013 and further requested the FAA to dispose off the matter on the merit of the case.

AND WHEREAS, again the PIO had, vide letter No. CT/LEG/116/2005/2584 dated 20.06.2013 informed the applicant that the hearing was re-fixed on 29.06.2013 at 12:00 PM. However, the applicant(now the appellant) had, vide letter No. APP/SMT (NGLD)-13-01-17-B dated 25.06.2013 cited inability to attend the scheduled hearing on 29.06.2013 and reiterated that the FAA dispose off the matter on the merit of the case.

AND WHEREAS, since the Commissioner of Taxes & First Appellate Authority (FAA), Office of the Commissioner of Taxes, Nagaland, Dimapur had not held any hearing and disposed off/passed any decision on the First Appeal dated 16.04.2013, though the applicant(now the appellant) had in two occasions expressed his inability to attend the scheduled hearings, the Commission, directed the Commissioner of Taxes & First Appellate Authority, Office of the Commissioner of Taxes, Nagaland, Dimapur to hold a hearing in the presence of the PIO concerned, and pass *ex parte* quasi-judicial decision/order **by 26.08.2013**, with a copy of the decision to this Commission and the appellant. Further, it is also notified that **no extension of time shall be given** to the Commissioner of Taxes & First Appellate Authority (FAA), Office of the Commissioner of Taxes, Nagaland, Dimapur.

AND WHEREAS, in compliance to the direction of the Commission, the Commissioner of Taxes & First Appellate Authority (FAA), Office of the Commissioner of Taxes, Nagaland, Dimapur had heard the first appeal dated 16.04.2013 and passed quasi-judicial decision on 26.08.2013 that:-

1. Sl. No. 1 and 7 had already been provided by the PIO vide letter No. CT/LEG/116/2005 dated 28.02.2013 and therefore action is not required.
2. Sl. No. 2, 3, 4 5 and 6, the information cannot be denied under Section 8(d), 8(e), 8(g) and 8(j) of the RTI Act, 2005, since the tender process has already been completed and the contract has been awarded. Moreover, being a project wholly funded by the Government of India and the State Government of Nagaland, the documents sought are therefore public in nature and may be provided within 10 (ten) days of the Order on payment of applicable fees (if any).

AND WHEREAS, on receipt of the quasi-judicial decision of the Commissioner of Taxes & First Appellate Authority (FAA), Office of the Commissioner of Taxes, Nagaland, Dimapur dated 26.08.2013, the Commission had, vide letter of even No. dated 30.09.2013 directed to kindly confirm receipt of the information by the above appellants and also inform the Commission on the action taken on the above decision **by 04.10.2013**.

AND WHEREAS, the applicant (now the appellant) had vide letter No. APP/SMT(NGLD)-13-01-17/02 dated 18.09.2013 submitted a contempt of the First Appeal Order dated 26.08.2013 to the Commissioner of Taxes & First Appellate Authority (FAA), Office of the Commissioner of Taxes, Nagaland, Dimapur and with a copy to this Commission, stating that the concerned PIO, Office of the Commissioner of Taxes, Nagaland, Dimapur had, inspite of the necessary directions, failed to furnish the necessary information and records sought. And also requested this Commission to take necessary action on the matter.

AND WHEREAS, this Commission has decided to hear the appeal, giving opportunity to the parties, on **26th November, 2013 (Tuesday) at 1:00 PM** in the **Hearing Room of the Nagaland Information Commission, Old Secretariat Complex, Kohima**.

NOW THEREFORE, it is notified that the following concerned are directed to appear before this Commission and **also to bring the files and relevant documents** in question for scrutiny, on the above date and time for hearing.

- i. The Commissioner of Taxes & First Appellate Authority, Office of the Commissioner of Taxes, Nagaland, Dimapur.
- ii. The Joint Commissioner of Taxes & PIO, Office of the Commissioner of Taxes, Nagaland, Dimapur.
- iii. The applicant(now appellant), Sri. Soumitra Sengupta, C/o Lt. Abdus Samad Choudhury, House No. 34, Hemgiri Path, South Sarania, Ulubari, Guwahati – 781007, District Kamrup(M), Assam, Mobile No. 9706896033.

(SOYIMNA AIER KOZA)
Secretary

Copy to:-

1. The P.P.S. to the Hon'ble Chief Information Commissioner, Nagaland Information Commission for kind information of the CIC.
2. The P.A to the State Information Commissioner(K), Nagaland Information Commission for kind information of the SIC.
3. The P.A to the State Information Commissioner(B), Nagaland Information Commission for kind information of the SIC.

4. The Commissioner of Taxes & First Appellate Authority, Office of the Commissioner of Taxes, Nagaland, Dimapur.
5. The Joint Commissioner of Taxes & PIO, Office of the Commissioner of Taxes, Nagaland, Dimapur.
6. The applicant(now appellant), Sri. Soumitra Sengupta, C/o Lt. Abdus Samad Choudhury, House No. 34, Hemgiri Path, South Sarania, Ulubari, Guwahati – 781007, District Kamrup(M), Assam, Mobile No. 9706896033.
7. The Computer Programmer, Nagaland Information Commission for uploading on the website and Notice Board.
8. Office Copy.