



**Central Information Commission**

**Room No. 305, 2<sup>nd</sup> Floor, 'B' Wing, August Kranti Bhavan,**

**Bhikaji Cama Place, New Delhi-110066**

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**Case No. CIC/SS/A/2012/003480**

**Dated: 12.09.2013**

Name of Appellant : Shri P. Murugesan  
Name of Respondent : Directorate General of Foreign Trade  
Date of Hearing : 16.07.2013

**ORDER**

Shri P. Murugesan, hereinafter called the appellant has filed the present appeal dated 11.10.2011 before the Commission against the respondent Directorate General of Foreign Trade, Ministry of Commerce, New Delhi for not providing information in response to his RTI application dated 8.10.2010. The appellant was absent whereas the respondent were represented by Shri Daya Shankar, Deputy DGFT.

2. The appellant through his RTI application dated 8.10.2010 addressed to the Secretary, Ministry of Commerce, sought information on the following six queries: "(1) Whether the Government of India, Ministry of Commerce is aware about collecting Agricultural Development Fund (ADF) by the Monitoring and canalizing agencies, while exporting the Onion to foreign countries. If yes, Order copy allowing to collect the Agricultural Development Fund by the canalizing Agencies may please be provided; (2) Whether the amount of ADF @ Rs. 20 per MT is included while fixing the MEP and the same is collected from the importer by way of minimum export price or this amount is the own money of canalizing agencies and associated shippers; (3) After collecting the ADF, who is utilizing

the Fund; (4) What is the step taken by the GOI to have proper control on utilization of ADF i.e. checking measures of misuse of the Fund of ADF; (5) Whether GOI is aware that Income Tax Tribunal, New Delhi has waived Income Tax near about 1.8 crores treating the ADF is collected by the Authority under the permission and control of GOI, Ministry of Commerce; and (6) Whether the Government is aware judgement in the case of NAFED Vs. A.M. Ahmed & Co., Madras and others". The CPIO, Ministry of Commerce vide OM No. 6/3/2010-EP(Agri-VI) dated 29.11.2010 transferred the RTI application to the CPIO, Department of Agriculture and Cooperation.

3. The CPIO, Department of Agriculture & Cooperation (Cooperation Division) vide letter No. L-15018/9/2010-MPS dated 16.12.2010 informed the CPIO, Department of Commerce, with a copy to the appellant, that NAFED is a canalizing agency for the export of onion under the notification issued by the DGFT under Foreign Trade Police. Besides, NAFED, DGFT has also notified other affiliated agencies, which undertakes export of onion or provide their NOC to the exporters. A service charge as levied by DGFT by way of notification is collected by canalizing/affiliating agencies. In view of this, the Department of Commerce were requested to furnish the desired information to the appellant, incorporating the requisite additional information from DGFT. In turn, the CPIO, Department of Commerce vide letter No. 6/3/2010-EP(Agri-VI) dated Nil December, 2010 requested the CPIO, DGFT to provide additional information to the appellant. The CPIO, DGFT vide letter No. 01/91/170/08/AM11/EC/944 dated 29.6.2011 informed the appellant as follows: "As far as DGFT is concerned, we were not aware of collection of any ADF by canalizing agencies for export of onion. The canalizing agencies were authorized to charge the service charges upto 1% of the invoice value of export of Onion through Notification No. 27 of 1.8.2008. This service charge was modified through Notification No. 106 of 14.5.2009. Therefore, as per the Notification No. 106 of 14.5.2009 the canalizing agencies were authorized to issue NOC to the

associate shippers and can levy service charge at a uniform rate of 1% of the invoice value of export.”

3. Aggrieved with the reply of the CPIO, DGFT, the appellant preferred first appeal before the FAA, DGFT. The FAA, DGFT has not disposed of appellant's first appeal till the filing of the present appeal before the Commission.

4. The CPIO submits that the appellant is well aware of all the facts and is also aware that a writ appeal was sub-judice on a similar matter. He is also well aware that DGFT has not authorized collection of any ADF. In his submission before the High Court the appellant had himself stated that the respondent can get the required information from NAFED and supply it to him. The information regarding NAFED and the case pending before Delhi High Court were new facts subsequent to his RTI application dated 8.10.2010. Prior to this DGFT did not come across any information about collection of ADF either by NAFED or any other canalizing agencies.

5. The appellant in the present RTI application filed by him is seeking information about collection of Agricultural Development Fund by both monitoring and canalizing agencies, while exporting onion to foreign countries. The appellant has not received a clear categorical reply from either the CPIO (Cooperation), Department of Agriculture and Cooperation or from the CPIO, Department of Commerce or from the CPIO, DGFT. The FAA, DGFT has failed to pass any order on the appeal filed before him. The matter is remitted back to the FAA, DGFT to pass a speaking order and provide information to the appellant. The FAA, DGFT will comply with the directions of the Commission **within two weeks** of receipt of this order.

The matter is disposed of on the part of the Commission with above directions/observations.

**(Sushma Singh)**  
**Information Commissioner**

Authenticated true copy:

(K.K. Sharma)  
OSD & Deputy Registrar

Address of the parties:

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Dindigul-624001 (TN)

The Deputy Director General (EC)/CPIO,  
Directorate General of Foreign Trade,  
Udyog Bhawan,  
New Delhi-110001.

The First Appellate Authority,  
Directorate General of Foreign Trade,  
Udyog Bhawan,  
New Delhi-110001.