



**Jammu and Kashmir State Information Commission**  
(Constituted under Right to Information Act 2009)  
Old Assembly Complex, Srinagar, Fax No. 0194-2484269, 2484262  
Wazarat Road Near DC Office, Jammu, Fax No. 0191-2520947, 2520937  
www.jksic.nic.in

\*\*\*\*\*

**File No:** SIC-J-A-198 /2013  
**Decision No:** SIC-J-A-198/2013/62

Smt. Janak Mehta Represented by Sh. Prem Mehta (Husband of the applicant)	Appellant	Present
Sh. Suneel Malhotra Advocate On behalf of Sh. Surinder Kumar Bamba		Present
Sh. Vikas Sharma Inspector of Income Tax, On behalf of FAA, the Joint Commissioner of Income Tax Range-1, Jammu		Present

**Jammu**  
**24-02-2014**

Briefly the facts in this appeal are that Smt. Janak Mehta R/o 147-C, Block A/D Green Belt, Gandhi Nagar, Jammu moved an application dated 30-11-2012 before the CPIO/Income Tax Officer, Ward No. 1(3) Jammu Aayakar Bhawan, Rail Head Complex, Jammu under Right to Information

Act, 2009 whereunder she sought the following information about M/s Vicky Wine Store, Jammu :-

1. Copies of Account statements filed with the return of income tax of my firm M/s Vicky Wine Shop, Jammu (PAN-AABFY-6629-D) with effect from assessment year 2000-2001 to 2011-12.
2. The grounds on which the returns for the assessment year 2002-2003 and onwards in which the change of the constitution of the firm has been shown fraudulently were accepted and assessment orders passed there of accordingly;
3. The copies of the dissolution deed and fresh deed filed alongwith the return of income for the assessment year 2002-2003 for effecting the change of constitution of the firm and if not filed how and on what grounds the change was allowed;
4. The action taken or is being taken on the basis of my complaints.

The CPIO vide F.No. ITO/W-1(3)/JMU/2012-13/1181 dated 31-12-2012 observed that the information sought by the applicant in respect of income tax does not pertain to the applicant but to the third party. Income tax details are personal/confidential and are not in public domain and cannot be supplied under clause (d) and (j) of section 8(1) of Right to Information Act-2005 (Central Act). This can only be supplied to the assessee concerned and not to the others. The CPIO relied upon the decision of the Central Information Commission, New Delhi which was delievered vide order No:CIC/AT/A/2008/01261/LS dated 19-05-2009 in the case of Sh. Om Parkash v/s CPIO. The CPIO also placed reliance in the case of Sh. Ranjit Singh v/s Income Tax Department, Amritsar which was disposed of vide order No:CIC/LS/a/2009/000932 dated 10-03-2010, whereunder a similar view was taken that the information related to income tax details is personal and confidential and cannot be supplied under clause (d) and (j) of section 8 (1) of the Right to Information Act - 2005 (Central Act).

Feeling aggrieved of the aforesaid order of the CPIO, the information seeker filed the appeal before the Joint Commissioner of Income Tax Range-1, Jammu/FAA which was disposed of vide order No:JCIT/R-

1/JMU/2013-14 dated 24-07-2013. The FAA in its order observed as under:-

“In conclusion, after considering all the relevant material and facts of the case, I am of the considered view that the Income Tax Officer W-1(3), Jammu (CPIO), has rightly denied the passing of information. The action of the Officer in denying the information relating to the providing the copies of returns and balance sheet of M/s Vicky Wine Store from Assessment Year 2000-01 to 2002-03 is in line with the provisions of Section 8(1)(i) of the Jammu and Kashmir Right to Information Act, 2009. The refusal of information by the Officer is held to be not bad in law as well as on facts. In view of the above, the appeal filed by the appellant is dismissed.”

Feeling aggrieved of aforesaid order of the FAA, the appellant preferred second appeal dated 08-08-2013 before the Commission. As the information sought by the information seeker related to third party and in view of the section 16(5) of J&K Right to Information Act, 2009, it was mandatory for the Information Commission to give reasonable opportunity of being heard to the third party i.e M/s Vicky Wine Store Jammu, who is impleaded as third party. During the course of proceedings, Sh. Suneel Malhotra, Advocate appeared on behalf of Sh. Surinder Kumar Bamba who is operating the license of M/s Vicky Wine Store Jammu A/p 71, East Extension, Trikuta Nagar, Jammu. The third party, M/s Vicky Wine Store Jammu in their written statement filed before the Commission strongly objected for supply of record to the appellant on the ground that the information is their private information related to the personal and official affairs and exempted from disclosure under section 8 (1)(i) of J&K Right to Information Act, 2009 and section 138 of the Income-tax Act, 1961. The third party also submitted disclosure of information sought would have no relationship to any public activity or interest, rather the information relates to commercial confidence and its disclosure would harm their competitive

position. In support of their contentions, the third party relied on following orders passed by the Central Information Commission:-

- i. Order dated 16-09-2009 in Appeal no:CIC/LS/A/2009/000717 in the case of Ramesh Madan Lal Malpani;
- ii. Order dated 15-06-2009 in Appeal No:CIC/AT/A/2008/000628 in the case of Milap Choraria/vs CBDT;
- iii. Order dated 25-10-2010 in Appeal No:CIC/AT/A/2008/00418 in the case of Sanjay Kumar Gupta Vs. Income Tax Department.
- iv. Order dated 10-12-2007 in Appeal No:CIC/AT/A/2007/00921 in the case of Anil Chintaman Khare Vs. CIT.

The third party also relied upon the recent judgment of the Hon'ble Supreme Court of India in the case of Girish Ramchandra Deshpande Vs. Central Information Commission and others, in SLP (Civil) No:27734 of 2012 wherein it was observed that details disclosed by a person in his Income Tax Returns are personal information which stand exempted from disclosure under Section 8(1)(j) of the Right to Information Act, 2005 (Central Act)/under section 8(1)(i) of J&K Right to Information Act, 2009.

The third party also pleaded that the appellant is motivated by the personal animosity and as such no public interest is involved in seeking the information. Moreover, irreparable harm shall be caused to the interest to his client if information pertaining to them is provided to the RTI applicant and prayed that the order passed by the Public Information Officer and upheld by the First Appellate Authority be maintained and appeal of the appellant be rejected.

The appellant took a plea that she continued to be partner of the Firm M/s Vickey Wine Store, Jammu till 8-04-2004 and requested that she may be provided the information preceding that period as she is seeking information about herself. In support of her plea she referred to an order dated 08-04-2004 passed by the Excise Commissioner, whereby the name

of the appellant was deleted from the licence under which M/s Vicky Wine Store was being operated. The Commission directed the appellant to produce any document in support of her contentions that she was the partner of the aforesaid firm M/s Vicky Wine store Jammu till 2004. On the direction of the Commission and in support of her contention, the appellant produced copy of Excise order dated 8-04-2004, wherein the Excise Commissioner, J&K Government inter-alia observed as under:-

“ After consideration of the case in compliance with the directions of the Hon’ble Court dated 6-09-2002 in OWP No.828/02 the name of Mrs. Janak Mehta W/o Sh. Prem Mehta R/o Jullaka Mohalla, Jammu is hereby deleted from the licence No. 187-off of M/s Vicky Wine Store, Parade Ground, Jammu.”

The appellant also produced a photocopy of partnership deed drawn on 21<sup>st</sup> October, 1982 between Smt. Janak Mehta W/o Sh. Prem Mehta R/o Jullaka Mohalla, Jammu and Smt. Suman Daluja W/o Sh. Raj Kumar Daluja R/o 71-New Rehari Jammu whereunder the business of the Firm has to be carried in the name and style of M/s Vicky Wine Store at Parade Ground, Jammu.

From the aforesaid facts, it is apparent that the appellant was partner of the Firm M/s Vicky Wine Store Jammu till her name was deleted by the Excise Commissioner vide Excise Commissioner’s order dated 08-04-2004 and therefore, the information sought by her till she continued to be partner of the Firm M/s Vicky Wine Store Jammu is her personal information and to which she is legally entitled to have access. The Commission therefore, directs the CPIO/PIO to provide the requisite information as available in office record till the deletion of name of the appellant from partnership by Excise Commissioner on 08-04-2004. However, the information beyond 2004 as claimed by the appellant in her RTI application is third party information, which is also personal

information of third party in terms of the provisions of J&K Right to Information Act, 2009. The disclosure of such information would cause unwarranted invasion of the privacy of an individual under section 8(1)(i) of J&K Right to Information Act, 2009. Moreover, the appellant has not succeeded in establishing that the information sought for beyond 2004 is in the larger public interest. Therefore, for this part of the information, her plea cannot be entertained and order of the CPIO/FAA are upheld.

The appeal is disposed of with above directions.

Notice of this decision be given free of cost to the parties.

**Sd/-**  
**Er. Nazir Ahmed**  
State Information Commissioner

**Sd/-**  
**Dr. S.K. Sharma**  
State Information Commissioner

Copy to :

9. The First Appellate Authority / Jt. Commissioner of Income Tax Range-1, Jammu.
10. Public Information Officer / Income Tax Officer, Ward-1(3), Jammu.
11. Smt. Janak Mehta R/o 147-C, Block A/D Green Belt Gandhi Nagar, Jammu.
12. Sh. Surinder Kumar Bamba R/o 71-East Extension Trikuta Nager Jammu.
13. Guard file.

(Khalid. A. Shah)  
Dy. Registrar  
State Information Commission