BEFORE THE APPELLATE AUTHORITY
(Under the Right to Information Act, 2005)
SECURITIES AND EXCHANGE BOARD OF INDIA

Appeal No. 2153 of 2015

R. M. Juneja	:	Appellant
	Vs.	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated March 27, 2015, under the Right to Information Act, 2005 (hereinafter referred to as "**RTI Act**"), before the Central Assistant Public Information Officer (hereinafter referred to as "**CAPIO**") at SEBI–Western Regional Office, Ahmedabad. The respondent vide letter dated April 21, 2015, responded to the appellant. The appellant has filed this appeal dated May 8, 2015 (received at SEBI on May 18, 2015), against the said response. I have carefully considered the application, the response and the appeal and find that the matter can be decided based on the material available on record.

2. From the appeal, I note that the appellant is aggrieved with the respondent's response to the following queries of his application, viz. –

   i. *"Two of my sons who are NRI invested 50000 each in Reliance Natural Resources Fund Growth Plan-Growth Option on 25-02-2008. On 07-09-2013, Reliance Natural Resources Fund – Growth Plan merged with Reliance Vision Fund – Growth Plan Growth Option. They redeemed their units on 16-05-2014 without making any changes to their original investment amount. So does this transaction fall under Long Term Investment or Short Term Investment. Please let me know.*
   ii. *Can you please let me know the exact rule/regulation number that regulates the above scenario i.e. if the company in which the investor has invested his money originally merges with other company then does it nullify the original date of investment into the company. Will the date of investment now change to the date of merger?*
   iii. *Reliance deducted TDS from the final redemption value that my sons received upon selling their units, citing it as short term investment. Is it legitimate?"*

3. In his response, the respondent *inter alia* informed the appellant that the information sought by him was in the nature of seeking opinion of SEBI and seeking response of SEBI to hypothetical queries, which did not fall within the definition of *'information',* as defined under Section 2(f) of the RTI Act.

4. In this appeal, the appellant has *inter alia* submitted: *"Please note that as per SEBI response, my queries are not hypothetical and are real life scenarios that I am actually facing. … I received a pathetic*

response Simply directing to refer a website with plethora of guidelines, beyond comprehension of a common man…"

5. Upon a perusal of the appellant's request for information as made through the abovementioned queries of his application, I find the information sought therein was in the nature of seeking opinion, clarification, guidance, etc. from SEBI. Further, I find that the appellant had not requested for any *'information'* as defined under Section 2(f) of the RTI Act. In this context, I note that the Hon'ble Supreme Court of India in the matter of *Central Board of Secondary Education & Anr. vs. Aditya Bandopadhyay & Ors (Judgment dated August 9, 2011)*, had inter alia held that: A public authority is *"...not required to provide 'advice' or 'opinion' to an applicant, nor required to obtain and furnish any 'opinion' or 'advice' to an applicant. The reference to 'opinion' or 'advice' in the definition of 'information' in section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provided advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with Page 2 of 2 any obligation under the RTI Act".* Further, in the matter of *Shri Shantaram Walavalkar vs. CPIO, SEBI (Decision dated January 17, 2013)*, I note that the Hon'ble CIC had held that: *"... we would also like to observe that, under the Right to Information (RTI) Act, the citizen has the responsibility to specify the exact information he wants; he is not supposed to seek any opinion or comments or clarifications or interpretations from the CPIO…".* I note that the Hon'ble CIC in the matter of *Sh. Alok Shukla vs. CPIO, SEBI (Decision dated May 23, 2013)*, had held that: *"While dealing with RTI, we should not forget that information means only an existing material record. The CPIO can provide the copy of the available records; he cannot create new records in order to address specific queries of the Appellant. What the Appellant wants here is clearly in the nature of seeking opinion and not information. Therefore, it is not within the capacity of the CPIO to offer any such opinion or comment".* I also note that the Hon'ble CIC in the matter of *Shri Harinder Dhingra vs. Central Forensic Science Laboratory (Decision dated February 10, 2014),* had *inter alia* held that: *"… the Commission notes that the queries made by the Appellant … are hypothetical in nature and do not identify any material information as defined in section 2(f) of the RTI Act. They are based upon a particular situation which the Appellant himself has created. Such queries do not qualify to be information within the meaning of section 2(f) of the RTI Act. The public authorities are not obliged to answer such queries under the RTI Act."* In view of these observations, I find that the respondent cannot be obliged to provide a response to such request for information, as made by the appellant through his application.

5. I, therefore, find that there is no need to interfere with the decision of the respondent. The appeal is accordingly dismissed.

Place: Mumbai **S. RAMAN**
Date: June 17, 2015 **APPELLATE AUTHORITY**
SECURITIES AND EXCHANGE BOARD OF INDIA