

Inland Revenue Assessors' Union v. Department of Inland Revenue

RTIC Appeal(In-Person)/831/19 - *Order under Section 32 (1) of the Right to Information Act, No. 12 of 2016 and Record of Proceedings under Rule 28 of the Right to Information Rules of 2017 (Fees and Appeal Procedure)* – heard as part of a formal meeting of the Commission on 09.07.2019

Commission Members: Mr. Mahinda Gammampila (Chairperson)
Ms. Kishali- Pinto Jayawardena
Justice Rohini Welgama

Appellant: Inland Revenue Assessors' Union
Notice Issued to: Designated Officer, Department of Inland Revenue

Appearance

Appellant: Senaka Samarasinghe- Deputy Commissioner
N.V.U. Malkanthi - Deputy Commissioner

PA: D.J.M..Devapriya- Senior Commissioner
Information Officer

RTI Request filed on	15/08/2018
IO responded on	10/09/2018
First Appeal to DO filed on	20/09/2018
DO responded on	19/10/2018
Appeal to RTIC filed on	16/11/2018

Brief Factual Background:

The Appellant, a union formed for Inland Revenue Assessors' has requested the following information by an information request dated 15/08/2018.

Requested Information

1. Copy of the agreement entered into with NCS and other parties (if any) relating to the RAMIS Project.
2. Copies of TOR (Technical of Requirements)
 - 2.1 Functional Requirements
 - 2.2 Non- Functional Requirements
 - 2.3 Security Requirements
 - 2.4 Reporting Requirements
3. Copies of Agreed Acceptance of TOR
4. Copies of UCS (User Case)- Original and Last Updated
5. Sign Off sheets of every modules of the RAMIS Project
6. Details of the Production defects reported by the officers which have been resolved under the following format

Reference No/	Description of	Date of	Date of	No. of dates
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Defect No	the defect	reported	resolved	taken to resolve the defect

7. Details of Production defects reported by the officers which have not been unresolved yet, under the following format

Reference No./Defect No.	Description of the defect	Date of reported

8. Following details of every Modules and Sub Modules

Name of the Module	Date of UAT completed	Date of sign off	Date of production deployment

9. User instruction details issued to IRD officers

Tax Types	Circular No.	Date of issue
CIT		
VAT		
NBT		
PAYE		
WHT		
IIT		
PIT		

10. Details of change requests made so far

11. Copy of SOR (Service of Requirement)

12. Copies of confirmations from any other relevant parties if any regarding the modules/ works done by NCS.

The Information Request relates to information based on the implementation of the Revenue Administration Management Information System (RAMIS) programme. According to the Public Authority (PA), RAMIS is to enhance the efficiency of the Inland Revenue Department and revenues for Sri Lanka, as part of a fiscal management reform programme. Accordingly, the Inland Revenue Department signed a Memorandum of Understanding with Infocomm Development Authority (IDA) of Singapore to implement this project.

The Appellant's information request was rejected by the Information Officer on 10.09.2018 on the ground that 'it is exempted information covered by Section 3(1) and 43 of the Act/ the information is already published/or is not in our possession, custody, or control.' The Appellant lodged an Appeal with the Designated Officer on 20.09.2018 stating *inter alia* that the reasons in the letter rejecting the request are not clear and that the Appellant is a body incorporated under the Trade Union Act under the registration number 8350. On 25.09.2018 the Designated Officer sent an acknowledgement to the Appellant. The request was thereafter rejected by the Designated Officer on 19.10.2018 affirming the decision of the Information Officer. Subsequently, the Appellant made an appeal to the Right to Information Commission on 16.11.2018 challenging the decision of the Designated Officer.

Matters Arising During the Course of the Hearing:

During the hearing on 09 July 2019, the Appellant and the Public Authority (PA) were both present. The PA stated that the agreement entered to implement the RAMIS project relates to a 3rd party, namely a Singapore based company. Therefore, the PA stated that it cannot release information Nos.1,2 and 3 without the consent of the Singaporean company.

According to Section 29 (1) of the Right to Information Act No.12 of 2016 (RTI Act), where information relates to or was supplied by a third party and at the time the information was supplied it was treated as confidential, the information officer has an obligation to invite such third party to make representation for or against such disclosure. Therefore, the PA submitted that the permission from the Singaporean company must be sought prior to disclosing the information requested.

The Appellant submitted that it will not be pursuing the information requested by item No.4 but will continue to request the information stated in items Nos.5-12.

Order:

In relation to requested information under item Nos.1, 2 and 3, the Commission orders the Public Authority to obtain the Singaporean company's consent prior to releasing the said information. The Public Authority is to consult the Singaporean company and obtain its consent to disclose the requested information in items Nos.1-3, prior to the next appeal hearing. Therefore, a final date is given to clarify consent.

The Appellant is not pursuing item No.4 is noted of record. With regard to information requested under items Nos. 5-12, the Commission orders the Public Authority to allow the Appellant to inspect the documents requested. A direction is hereby made allowing the Appellant to only inspect the requested information.

The appeal is adjourned.

Next date of Hearing: 15.10.2019

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RTIC Appeal(In-Person)/831/19 - *Order under Section 32 (1) of the Right to Information Act, No 12 of 2016 and Record of Proceedings under Rule 28 of the Right to Information Rules of 2017 (Fees and Appeal Procedure)* – heard as part of a formal meeting of the Commission on 15.10.2019

Commission Members: Mr. Mahinda Gammampila (Chairperson)
Ms. Kishali- Pinto Jayawardena
Justice Rohini Welgama

Director General: Mr. D.G.M.V. Hapuarachchi

Appellant: Inland Revenue Assessors' Union
Notice Issued to: Designated Officer,
Department of Inland Revenue (IRD)

Appearance
Appellant: Senaka Samarasinghe
Deputy Commissioner, IRD

PA: D.J.M.Devapriya- Senior Commissioner
Information Officer, IRD

Matters Arising During the Course of the Hearing:

The PA submitted that it has written to the Singaporean company to obtain its consent to disclose information relating to items Nos.1-3 of the information request. However, the Singaporean company had not consented to disclosure of the agreement of the RAMIS project. With regard to item No.2 of the information request relating to; copies of TOR (Technical of Requirements), Functional Requirements, Non- Functional Requirements, Security Requirements and Reporting Requirements, the Appellant stated that these documents would be annexed to the agreement requested in item No.1.

The PA stated that the agreement relating to the RAMIS project is signed between two governments and the first clause of the said agreement contains a confidentiality clause. The Commission noted that in *Airline Pilots Guild v. Sri Lankan Airlines* (RTIC Appeal (In-Person)/99/2017, Order delivered on 12.06.2018) the Commission upheld that a confidentiality clauses in concluded agreements in particular, could not be accepted, *per se*, as a basis to deny information. In terms of ongoing agreements, the position of the Commission was that the confidentiality clause would apply and in such an instance disclosure of information can be denied.

The Appellant stated the reason that the Inland Revenue Assessors' Union submitted this specific information request was because the RAMIS system was introduced to Sri Lanka through the Singaporean company with the aim of giving full control over to the Department of Inland Revenue by 2020. According to the Appellant, when there is an error in the system and certain

modifications are made, the Singaporean company charges the PA for each modification. It is in this regard that the Appellant seeks to obtain information to assess the manner in which payments are made for the processing of the RAMIS system.

In response, the PA stated that the RAMIS system was implemented on a stage-by-stage basis depending on the type of taxes. First, the system was introduced to the corporate sector. Thereafter, the system was introduced in phases to other sectors as well. The tax slab 'economic service charge' is yet to be introduced under this system. The PA reiterated that during the process of implementation several modifications are required which takes a certain period of time. The PA went on to explain that under such an implementation arrangement, it receives requests to improve the system further in order to facilitate the business community. It is in this context that requests for modifications of the RAMIS system are made. According to the PA, although negotiations relating to the RAMIS agreement are concluded, there are still further steps that need to be adopted for the full implementation of the system. The PA went on to state that the Singaporean entity charges on an hourly rate and when there is a request for modifications, each modification is charged separately.

The Appellant submitted that as employees of the Inland Revenue Department, they faced several difficulties when operating the RAMIS system, which they contend is more inefficient than the previous manual system. When the Assessors' Union suggested recommendations to improve the system, they were informed that a large sum of money is required to make modifications to the RAMIS system. The Appellant is seeking clarification from the Department as to why a substantive sum of money is expended in order to fine tune and implement the system.

The Commission queried if there is an indication of how many payments were made for modification of the system, as this is an issue which involves public funds. In response, the PA stated that there are certain committees established with the assistance of the University of Moratuwa to assess whether such amendments and payments are necessary.

The Appellant went on to state that there is no foreseeable limit to the changes that will be done to the RAMIS system considering the fact that it will need to be further modified in order for it to be compatible with the requirements of the new Inland Revenue Act, No.24 of 2017.

Order

This Commission has on several occasions placed a stringent obligation on the PA to disclose the quantum of moneys expended from public funds. [*Ceylon Bank Employees' Union v. People's Bank* (RTIC Appeal (In-Person) /58/2018 order delivered on 22.05.2018), *Airline Pilot Guild of Sri Lanka v. Sri Lankan Airlines Ltd* (RTIC Appeal (In-Person) /99/2017 order delivered on 12.06.2018)].

In the factual background that the Appellant stated that substantial public funds are dispersed in order to accommodate modifications to the RAMIS system, the Commission is of the view that a

breakdown of the manner in which payments were made in this regard should to disclosed for the perusal of the Commission.

Accordingly, the PA is directed to provide a detailed explanation as to how payments have been made in respect modifications of the RAMIS process, and the amounts paid vis-à-vis which changes have been contemplated, together with the process followed.

Consequent to the disclosure of financial details pertaining to modifications of the RAMIS system, the Commission will make a determination on whether the agreement and TOR as requested by the Appellant by items Nos.1 and 2 of the information request should be disclosed.

The Appeal is adjourned.

Order is hereby conveyed to both parties in terms of Rule 27 (3) of the Commission's Rules on Fees and Appeal Procedures (Gazette No. 2004/66, 03.02.2017).

Next date- 14.01.2020.