

**Customs Excise and Service Tax Appellate Tribunal
West Block No 2, R.K. Puram, New Delhi-110 066**

FAA Section

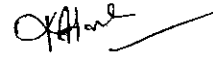
Dated: 28.05.2019

Sub: Forwarding of Hon'ble FAA's Order - reg.

Sir,

I am directed to forward herewith the copies of the following Orders passed by Hon'ble First Appellate Authority, CESTAT, New Delhi.

1. 04/2019 in CPIO ID No. 13-65/2018.



SPS/PA to the Hon'ble FAA

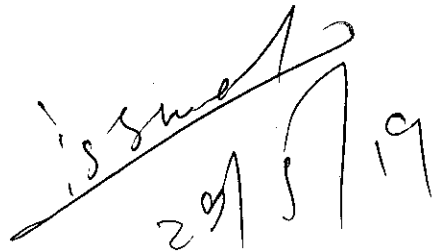
Encl.

1. Copies of the Ld. FAA's order.

To:

1. Shri R. K. Jain, 1512-B,
Bhishma Pitamaha Marg,
Wazir Nagar,
New Delhi- 110003

2. CPIO, CESTAT, New Delhi





*Recd
27/05/19*

**APPELLATE AUTHORITY
UNDER RIGHT TO INFORMATION ACT, 2005**

Customs, Excise & Service Tax Appellate Tribunal
West Block-2, R.K. Puram, New Delhi-110066.

Appeal No.14-01(A)/CESTAT/FAA/ND-RG/2019
CPIO ID NO.13-65/2019

Shri R.K. Jain

...Appellant

Vs.

CPIO, CESTAT, New Delhi.

...Respondent

Date of Hearing: 16.05.2019

ORDER 04/2019

The Appeal has been preferred against the Order bearing No. CPIO ID No. 13-65/2018 dated 13.03.2019 following which the documents annexed with the Application:

- (1) Copy of RTI application dated 20.10.2018.
- (2) Copy of CPIO's letter dated 12.11.2018.
- (3) Copy of CPIO's letter dated 06.12.2018.
- (4) Copy of appellant's letter dated 02.03.2019.
- (5) Copy of CPIO's letter dated 13.03.2019.

Notice of the Appeal dated 01.05.2019 was ordered to be issued on 03.05.2019 to the appellant to appear on 16.05.2019.

2. When the matter was called today, none appeared on behalf of the appellant however a letter bearing No. RTI/P-537/10701/18/R22714 dated 08.05.2019 was found placed on record. The appellant vide the said letter has requested to dispose of the Appeal on merits on the basis of available record and material. It was mentioned in addition that in case CPIO files any written submission/ reply, a copy thereof may be provided to the appellant for awaiting his response and in that situation, Appeal be decided thereafter only. Mr. Rajender has represented the Department in this Appeal. No written

[Signature]

submission/ reply has been filed on behalf of the Department thus keeping in view the request of the appellant vide the aforesaid letter dated 08.05.2019, the Appeal was heard. Appeal papers perused and the findings are as follows:

3. The appellant vide an Application No. RTI/P-195/10701/2018 dated 20.10.2018 sought the following information from the CPIO, CESTAT, New Delhi:

(A) Inspection of the following files held in the office of the Registrar/ Dy. Registrars.

- (i) Judicial file for the year 2018
- (ii) Roster file for the year 2018
- (iii) File relating to tours for the year 2018
- (iv) File for difference of opinion matter for year 2018
- (v) Larger Bench file for year 2018

(B) The number of files (except appeal files) held in the office of the Hon'ble President. Please also provide list of such files.

4. Perusal of records show that the requested information was sought by CPIO from Registrar, CESTAT and from SPS to Hon'ble President vide communication F. No. 13-65/CESTAT/CPIO-ND/VPP/2018 dated 29.10.2018. The reply thereof from SPS to Hon'ble President CESTAT was received on 30.10.2018 submitting that no file other than Appeal files is held in the office of Hon'ble President, CESTAT. The reply from Registrar was received by CPIO vide letter dated 06.11.2018 with respect to information (A) as above as follows:

"The applicant may inspect the files mentioned therein on any working day during office hours."

The said information contained in two pages was sent to the appellant vide Order dated 12.11.2018.

5. In furtherance of the Registrar's response that the inspection of all the files as mentioned at point (A) in the

KS

Application got done vide inspection note No. 1020 dated 22.11.2018 that the photocopies of relevant documents as being maintained in the Registrar's office were sought by the appellant. The said photocopies running into 698 pages were provided to the appellant against the payment of Rs. 1,396/- @ Rs. 2 per page vide the letter dated 06.12.2018. It is thereafter that a letter No. RTI/P-195/10701/18/R22621 dated 02.03.2019 was received by the CPIO as being sent by the appellant again asking for the information in relation to point (B) of RTI application. Vide Order under challenge, it was again brought to the notice of the applicant that no such files as have been asked by the appellant at point (B) are found held in the office of the Hon'ble President, CESTAT, New Delhi.

6. During the arguments; it is impressed upon on behalf of the Department that the only information in such circumstances which can be provided is that no such file is held in the office there is no apparent rebuttal to this submission. Appellant has opted to not to appear in person to pursue the Appeal. From the available record and material nothing contrary is apparent. In the given circumstances where voluminous information has already been provided to the appellant, I do not find any infirmity in the Order under challenge. The Appeal accordingly stands dismissed.


(RACHNA GUPTA)
APPELLATE AUTHORITY

Copy to:-

1. Shri.R.K.Jain, 1512-B, Bhishm Pitamah Marg, Wazir Nagar, New Delhi-110003, w.r.t. letter No. RTI/P-537/ (10701/18) /Appeal/ **16850 dated 22.03.2019.**
2. CPIO, CESTAT, New Delhi.
3. Office Copy



BH
13/12/19/2019
09/05/2019

1st appellate authority

Customs, Excise & Service Tax
Appellate Tribunal
09 MAY 2019
West Block No. 2, R.K. Puram,
New Delhi-110066

R.K. JAIN M.Com., LL.B.
President, Excise and Customs Bar Association
Editor of
GST LAW TIMES & EXCISE LAW TIMES
and author of

GST Law Manual; GST Tariff of India, Central Excise Tariff of India; Central Excise Law Manual; Customs Tariff of India; Central Excise Law Guide; Customs Law Manual; Excise & Customs Circulars & Clarifications; Excise & Customs Case Referencer; Service Tax Law Guide; Service Tax Handbook; Handbook of Duty Drawback; Valuation under Central Excise; Handbook of Foreign Trade Policy & Procedures

1512-B, Bhisim Pitamah Marg,
Wazir Nagar,
NEW DELHI - 110 003.
PHONE : 24693001-3004
MOBILE : 9810077977
Fax No. 011-24635243

RTI/P-537/10701/18/R22714
08-05-2019

Ms. Rachna Gupta
Hon'ble 1st Appellate Authority & Member (J)
Customs, Excise & Service Tax Appellate Tribunal,
West Block 2, R.K.Puram,
New Delhi - 110066

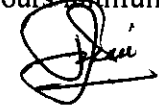
Sub: My Appeal No. 16850 in RTI Application No. 10701 (FAA Appeal No. 14-01(A)/2019)

Madam,

This refers to your office letter dated 6-5-2019 fixing 16-5-2019 as the date of hearing in the aforesaid Appeal. You are requested to dispose of the appeal on merits on the basis of available record and material. In case CPIO has filed any written submission / reply, kindly provide a copy thereof so that the appellant may file his response and only, thereafter, the appeal may be decided.

Thanking you,

Yours faithfully,



[R.K. Jain]

19/05/2019
19/05/2019

PA to Hon'ble Member (J) / FAA
9/5/19

20/03/19
25/03/19

FPA Appeal No. 14-DI(A)/2019

First Appeal under Section 19 of the Right to Information Act, 2005

Ref. No. RTI/P-537/(10701/18)/Appeal/16850

Dated : 22-03-2019

To

Hon'ble 1st Appellate Authority under RTI Act
Customs, Excise & Service Tax Appellate Tribunal,
West Block 2, R.K Puram,
New Delhi - 110066

Customs, Excise & Service Tax
Appellate Tribunal
25 MAR 2019
West Block No. 2, R.K. Puram,
New Delhi-110066

A. Contact Details

1. Name of the Appellant	R.K. Jain
2. Address	1512-B, Bhishm Pitamah Marg Wazir Nagar New Delhi-110003

B. Details About RTI Request :

1. Particulars of the CPIO against whose order appeal is preferred	(a) Name CPIO (b) Address Customs Excise & Service Tax Appellate Tribunal, West Block 2, R.K Puram, New Delhi - 110066
2. Date of submission of application (Copy of application attached)	20-10-2018
3. Details of the order appealed against	CPIO ID No. 13-65/2018 dated 13-3-2019
4. Prayer or relief sought	See Prayer clause at the end
5. Last date for filing the appeal	13-4-2019
6. Whether Appeal in Time	Appeal in time
7. Copies of documents relied upon by the applicant	1. Copy of RTI application dated 20-10-2018. (Annexure-1) 2. Copy of CPIO's letter dated 12-11-2018 (Annexure-2) 3. Copy of CPIO's letter dated 6-12-2018 (Annexure-3) 4. Copy of Appellant's letter dated 2-3-2019. (Annexure-4) 5. Copy of CPIO's letter dated 13-3-2019. (Annexure-5)

15/RTI/19
28/3/19

SBS to Hon'ble 1st Appellate Authority
Ms. Rachna Gupta
18/03/19

29/04/19
Received

The Appellate Authority (Mrs. Rachna Gupta) is on leave since 18/03/2019 to 26/04/2019. Shall be placed thereafter.

BRIEF FACTS OF THE CASE

- (1) That the appellant has filed an application dated 20-10-2018 (**Annexure – 1**) under Section 6 of the RTI Act, 2005 requesting for the information as specified in para 4 thereof.
- (2) That the appellant vide para 5 of his said application has also made a declaration that the information sought for is not exempted under Section 8 or 9 of the RTI Act, 2005 and also stated that to the best of the knowledge of the appellant, the information pertains to the Office of the CPIO in question.
- (3) That the CPIO has failed to provide complete and correct information as sought by the appellant within the specified period. The appellant being aggrieved by the said order of the CPIO is filing the present appeal.

GROUNDS OF APPEAL

- (1) That the order in question of the CPIO is incorrect and illegal and contrary to the provisions and spirit of the RTI Act, 2005 hence liable to be set aside.
- (2) That the Deemed CPIOs have failed to provide the information as sought in point (D) of the RTI application despite the direction of the CPIO in his letter dated 13-3-2019. Therefore the Deemed CPIO may be directed to provide the information.
- (3) That the appellant in point (B) of the RTI Application has sought information about the number of files (except appeal files) held in the office of the Hon'ble President. The Deemed CPIO has not provided the said information despite the directions of CPIO vide his letter dated 13-3-2019. Therefore, the order of the CPIO is liable to be set aside with direction to provide information in question to the appellant within time bound frame.
- (4) That the Deemed CPIO has denied the list of files as sought by appellant on the ground that it is not held. As per the Cabinet Secretariat Manual of Office Procedures, all files opened in a government office are to be numbered and entered in file opening register, therefore the claim of

deemed CPIO is wrong and is just to deny the information. The CPIO and Deemed CPIO are withholding the information as the same is held by them. Particularly when the existence in the office of the President has not been denied by CPIO and the Deemed CPIOs. Therefore, the order of the CPIO is liable to be set aside with direction to provide information in question to the appellant within time bound frame.

- (5) That the CPIO has erred in not providing the complete and correct information to the appellant though as per the provisions of the RTI Act, the appellant is entitled to information as sought by him. Therefore, the order of the CPIO is liable to be set aside with direction to provide point-wise information to the appellant within time bound frame.
- (6) That as per proviso to Section 8(1) of the RTI Act, 2005, the information which can not be denied to the Parliament or the State Legislatures shall not be denied to any person. The information sought by the appellant in the subject application is the one which cannot be denied to the Parliament or the State Legislatures and hence it cannot be denied or refused to the appellant.
- (7) That a personal hearing may be granted to the appellant before deciding the present appeal.
- (8) This is without prejudice to the right of the appellant to add, alter or modify any of the grounds of this appeal and adduce oral or written evidence at the time of hearing or till the appeal is disposed of.

PRAYER

Under the circumstances, the appellant prays as under:

- (a) That the Original Records may be summoned and perused.
- (b) That the order of the CPIO may be set aside to the extent it has been appealed against and CPIO/Deemed CPIOs may be directed to provide the information in question within time bound frame.
- (c) That any other relief as the Appellate Authority deem fit and proper may also be ordered in favour of the appellant.

- (d) That a personal hearing may be granted to the appellant before deciding the appeal.



Signature of Appellant
Telephone No. : 9810077977
24651101
Fax No. 011-24635243

Place : New Delhi
Dated : 22-03-2019

O/C

3

ANNEXURE - 1

Application under Section 6 of the Right to Information Act, 2005

Ref. No. : RTI/P-195/10701/18
Dated : 20-10-2018

To

Shri V.P.Pandey
CPIO & Asst. Registrar
Customs Excise & Service Tax Appellate Tribunal,
West Block 2, R.K.Puram,
New Delhi - 110066

Stamp: CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL, WEST BLOCK 2, R.K. PURAM, NEW DELHI-110066
Date: 23 OCT 2018
Signature: [Handwritten]

1.	Name of the Applicant	R.K. Jain
2.	Address	1512-B, Bhishm Pitamah Marg Wazir Nagar New Delhi-110003
	(b) Phone Nos.	09810077977, 011-24651101, 011-24690707
	(c) Fax No.	011-24635243
3.	Whether a Citizen of India	Yes
4.	Particulars of Information	
	Details of information required	(A) Please provide inspection of the following files held in the office of the Registrar/Dy. Registrars (i) Judicial File for the year 2018 (ii) Roster File for the year 2018 (iii) Files relating to tours for the year 2018 (iv) File for Difference of Opinion matters for year 2018 (v) Larger Bench File for year 2018 (B) Please provide the number of files (except appeal files) held in the office of the Hon'ble President. Please also provide list of such files. Note:-Please provide pointwise information/response for each of above points.
5.	I state that the information sought is covered under RTI Act and does not fall within the exemptions contained in sections 8 or 9 or any other provisions of the Right to Information Act, 2005 and to the best of my knowledge it pertains to your office. Information is being sought in larger public interest.	
6.	A Postal Order No. 44F 087283 for Rs. 10 towards payment of fee is enclosed herewith.	
7.	As per Section 7 of the RTI Act, 2005 information is to be provided within 30 days of the Application.	

Signature of Applicant
Telephone No. : 9810077977
011-24651101, 24690707
Fax No. 011-24635243

Place : New Delhi
Encl. : as above



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ANNEXURE - 2

F. No. 13-65/ CESTAT/CPIO-ND/VPP/2018
Customs, Excise and Service Tax Appellate Tribunal
West Block No. 2, R.K. Puram, New Delhi-110 066

CPIO ID No. 13-65/2018

Subject: Information under Right to Information Act 2005.

Sir/Madam,

Please refer to your RTI application No. 10701 dated 20.10.2018, under RTI Act, 2005 the information received from **SPS to Hon'ble President & The Registrar**, containing 1+1=2 pages is enclosed herewith for your reference please.

Therefore, you are requested to please acknowledge the receipt and deposit Rs. 02 X 2=04 (@ 2/- per page) to this Tribunal by cash or DD in favour of Accounts Officer, CESTAT, New Delhi.

Note:

1. RTI application's replies which are related to outer benches may be gathered from there by filing RTI applications there directly, for facilitation, CPIOs are nominated at all outer benches separately.

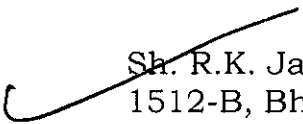
2. If aggrieved, you may file an appeal under section 19 of RTI Act within thirty days before Hon'ble First Appellate Authority, CESTAT New Delhi.


CPIO

CESTAT, New Delhi

Date: 12.11.2018

To,


Sh. R.K. Jain
1512-B, Bhishm Pitamah Marg,
Wazir Nagar, New Delhi-110003

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**Customs, Excise & Service Tax Appellate Tribunal
West Block 2, R.K.Puram, New Delhi**

Date: 06.11.2018
CPIO ID No. : 13-65/2018

Sub : Information under the RTI Act, 2005

With reference to the RTI application no. RTI/P-195/10701/18 dated 20/10/2018 filed by Shri R. K. Jain in CPIO ID No. 13-65/2018 the relevant information pertaining to Registrar's office is as under:-

- (A) The applicant may inspect the files mentioned therein on any working day during office hours.
- (B) Does not pertain to Registrar's office.


Registrar

To,
CPIO
CESTAT
NEW DELHI

8

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI**

30.10.2018

SUB : RTI REPLY TO CPIO ID NO. 13-65/2018

This is with reference to your communication F.No. 13-65/CESTAT/CPIO-ND/VPP/2018 dated 29.10.2018 for furnishing information under the RTI Act, 2005, which is as under :

(A)	Not applicable
(B)	No such list available.

[Handwritten Signature]
29/10/18

SPS TO HON'BLE PRESIDENT

CPIO

ANNEXURE - 1

F. No. 13-65/ CESTAT/CPIO-ND/VPP/2018
Customs, Excise and Service Tax Appellate Tribunal
West Block No. 2, R.K. Puram, New Delhi-110 066

9

CPIO ID No. 13-65/2018

Subject: Information under Right to Information Act 2005.

Sir/Madam,

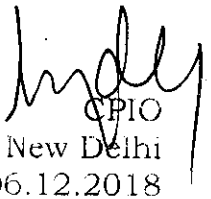
Please refer to your RTI application No. 10701 dated 20.10.2018, and Inspection Note No. 1020 dt. 22.11.2018, under RTI Act, 2005 the information received from **The Registrar**, containing 698 pages is enclosed herewith for your reference please

Therefore, you are requested to please acknowledge the receipt and deposit Rs. 698 X 2=1396 (@ 2/- per page) to this Tribunal by cash or DD in favour of Accounts Officer, CESTAT, New Delhi.

Note:

1. RTI application's replies which are related to outer benches may be gathered from there by filing RTI applications there directly, for facilitation, CPIOs are nominated at all outer benches separately.

2. If aggrieved, you may file an appeal under section 19 of RTI Act within thirty days before Hon'ble First Appellate Authority, CESTAT New Delhi.


CPIO
CESTAT, New Delhi
Date: 06.12.2018

To,

✓ Sh. R.K. Jain
1512-B, Bhishm Pitamah Marg,
Wazir Nagar, New Delhi-110003

V-23945

Customs Excise & Service Tax Appellate Tribunal
West Block No.2, R.K. Puram, New Delhi – 66

Dated : 05.12.2018
CPIO I.D. No. 13-65/2018

Sub: Information under the RTI Act, 2005 – reg.

With reference to the RTI application no. RTI/P-195/10701/18 dated 01.11.2018 filed by Shri R.K. Jain in CPIO I.D. No. 13-65/2018 and the inspection note no. 1020 dated 22.11.18 received from the applicant, the photocopies of the relevant documents as mentioned below, being maintained in Registrar's office, are enclosed herewith for onward transmission to the applicant.

1. The copies of Judicial File 2018:

Noting – page no 30-61 (32 pages)

Correspondence – page no. 391-458 (78 pages)

2. The copies of Larger Bench 2018:

Noting – page no. 19-20 (2 pages)

Correspondence – page no. 538-613 (76 pages)

3. The copies of Roster 2018 :

Noting – page no. 212-507 (295 pages)

4. The copies of Difference of opinion 2018:

Noting – page no. 18 (01 page)

Correspondence – 501-525 (25 pages)

5. The copies of Member's Tour 2018:

Noting – page no. 70-130 (61 pages)

Correspondence – page no. 172-299 (128 pages)

Total – 698 pages


Registrar

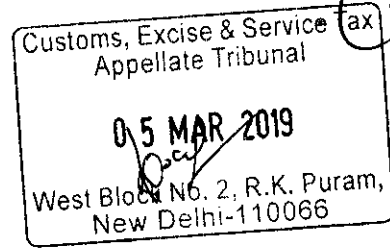
To

CPIO, CESTAT, New Delhi

R.K. JAIN M.Com., LL.B.
President, Excise and Customs Bar Association

Editor of
GST LAW TIMES & EXCISE LAW TIMES
and author of

GST Law Manual; GST Tariff of India, Central Excise Tariff of India; Central Excise Law Manual; Customs Tariff of India; Central Excise Law Guide; Customs Law Manual; Excise & Customs Circulars & Clarifications; Excise & Customs Case Referencer; Service Tax Law Guide; Service Tax Handbook; Handbook of Duty Drawback; Valuation under Central Excise; Handbook of Foreign Trade Policy & Procedures



1512-B, Bhisim Pitamah Marg,
Wazir Nagar,
NEW DELHI - 110 003.
PHONE : 24693001-3004
MOBILE : 9810077977
Fax No. 011-24635243

RTI/P-195/10701/18/R22621
02-03-2019

CPIO
Customs Excise & Service Tax Appellate Tribunal,
West Block 2, R.K.:Puram,
New Delhi
Delhi - 110066

Sub: My RTI Application No. RTI/10701/18; dated 20/10/2018

Dear Sir,

This refers to your letter CPIO ID No. 13-65/2018 dated 6-12-2018 providing 698 pages of information. On verification, it is found that the information in relation to Point (B) of the RTI application has not been provided. You are therefore requested to provide the said information at the earliest.

Thanking you,

Yours faithfully,



[R.K. Jain]

F. No. 13-65/CESTAT/CPIO-ND/VPP/2018
Customs, Excise and Service Tax Appellate Tribunal
West Block No. 2, R.K. Puram, New Delhi-110 066

12

CPIO ID No. 13-65/2018

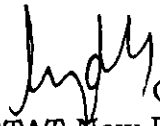
Subject: Information sought under RTI Act, 2005.

Sir/Madam,

Please refer to RTI application of Shri/Smt. R. K. Jain (No. 10701 dated 20.10.2018) and a letter no. RTI/P-195/10701/18/R22621 dated 02.03.2019 under RTI Act 2005 (Copy enclosed).

In the above said letter it is stated that the information regarding to point No. 4 'B' of the RTI application has not been provided to the applicant.

Therefore, you are requested to provide the requisite information at the earliest.


CPIO
CESTAT New Delhi
Date: 13.03.2019

For Compliance to:

1. SPS to Hon'ble President, CESTAT, Delhi

Copy to: (For Information)

Sh. R.K. Jain
1512-B, Bhishm Pitamah Marg,
Wazir Nagar, New Delhi-110003

V-24056

Grand file

