

10-130(A)/2015

CIC

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Reg No. 4514/CR-15
26/11/15

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

Ref. No. : RTI/P-501/(9481/15)/Appeal/16081

Dated : 25-11-2015

To

1st Appellate Authority Under RTI ACT, 2005
Customs, Excise & Service Tax Appellate Tribunal
West Block 2, R.K.Puram
New Delhi -

2 NOV 2015

[Signature]

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 :

120/82cm/RTI/15
27/11/15

1.	Particulars of the CPIO against whose order appeal is preferred	(a) Name	(1) Shri S.K. Verma, Asstt Registrar/ CPIO (2) Shri V.P. Pandey, Deemed CPIO and Assistant Registrar (Excise) (3) Shri Kripa Shanker, Asstt. Registrar and Deemed 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)	18-09-2015	
3.	Details of the order appealed against	F. No. 10-168/CESTAT/CPIO-ND/SKV/ 2014 dated 9-11-2015	
4.	Prayer or relief sought	See Prayer clause at the end	
5.	Last date for filing the appeal	9-12-2015	
6.	Whether Appeal in Time.	Appeal in time	
7.	Copies of documents relied upon by the applicant	1. Copy of RTI Application dated 18-9-2015 (Annexure-1) 2. Copy of Asstt. Registrar/ CPIO letter dated 21-10-2015 (Annexure-2)	

		3. Copy of Appellant letter dated 23-10-2015 (Annexure-3) 4. Copy of Asstt. Registrar/ CPIO dated 9-11-2015 (Annexure-4)
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BRIEF FACTS OF THE CASE

(1) That the appellant has filed an application dated 18-09-2015 (**Annexure – 1**) under Section 6 of the RTI Act, 2005 requesting for the following information:

(A) *The President, CESTAT has granted permission for pronouncement of order beyond 4 months/6 months from the date of final hearing as per the attached list (Annexure-A) earlier provided to the applicant. In this respect, please provide the following information :-*

(i) *Certified copy of the note / communication of the concerned members seeking such permission and also copy of the note of the Registry and copy of the order passed thereon by the President and the order No. and date when the order was finally pronounced.*

(ii) *Please provide certified copies of all Orders/ records of proceedings in relation to the appeals shown in the enclosed list except final order/stay order.*

(iii) *Please provide certified copies of all Vakalatnamas and no objections and date of filing the Vakalatnamas*

(B) *As per the note dated 11-6-2013 of the Members in appeal No. E/6096-6099/2001, it is recorded that as per the Registry's note dated 8-5-2013, the file was wrongly sent by the SPS to the Registry. In this respect, please provide the following information:-*

(i) *Please provide certified copy of all the note sheets put up by the Registry in the aforesaid appeals including the Note dated 8-5-2013.*

(ii) *Please provide the Name of the SPS who has wrongly sent the file to the Registry and date on which the said file was returned by the Registry. Please also provide the Name of the Member of the said SPS and certified copies of the Daily Diary / Despatch Diary under*

which the said file was wrongly sent to the Registry and Daily Diary and Despatch Diary under which it was received by the said SPS from the Registry.

- (iii) Please provide the date when the concerned Registry wrongly received the said file and the date on which it was returned by the Registry. Please also provide certified copies of the Daily Diary/Despatch Diary of the concerned Registry about the wrong receipt of the aforesaid file and date of its return to the concerned Member.*
- (iv) Please provide copies of all Supplementary cause lists in relation to the aforesaid appeals.*
- (v) Please provide information whether President's permission was sought for re-hearing of the matter, if not, please provide the said information.*

- (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 Shri S.K. Verma, Asstt Registrar/ CPIO and the Deemed CPIOs have deliberately and malafidely not provided complete and correct information as sought by the appellant. The appellant being aggrieved by the said order of the CPIO is filing the present appeal.

GROUND 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 information sought by the appellant is not exempted under Section 8 or 9 or any other provisions of the RTI Act, 2005, therefore,

4

-4-

there was no valid cause or reason or ground for not providing the information.

- (3) That Shri V.P. Pandey, Deemed CPIO and Assistant Registrar (Excise) has not responded to the RTI Application in question nor he has provided any information so far, he may therefore directed to provide information within time bound frame.
- (4) That Shri Kripa Shanker, Asstt. Registrar and Deemed CPIO has denied the information as sought in point A(i) to (iii) as being not maintained. Under the RTI Act, the maintenance of information is not the pre-requisite for providing the information. Since the information sought is held by the public authority, it is to be provided. Recently the First Appellate Authority of the CIC in the case of S.C. Agarwal V/s. CIC – First appeal No. CIC/AA/A/2013/269 decided on 3-10-2013 basing its decision on Supreme Court judgment held as under: -

*“...Under Section 2(j), the Right to Information conferred on the citizen means Right to Information “**accessible**” under the Act, which is “**held by**” or is “**under the control of**” any Public Authority. The attention of the CPIO is also drawn to judgment of Hon’ble Supreme Court in the case of Secretary General, Supreme Court of India Vs. the petitioner in LPA No. 501/2009, wherein the court has defined the words “**held by**” and “**under the control of**” as under:-*

*“The words ‘held by’ or ‘under the control of’ under Section 2(j) will include not only information under the legal control of the public authority but also all such information which is otherwise **received** or **used** or **consciously retained** by the public authority in the course of its functions and its official capacity.” (emphasis supplied)*

The information sought for by the appellant squarely falls within the ambit of the information of as defined under the RTI Act, there is no

denying that it is within the mischief of section 2 (j) of the RTI Act. In view of this, and the reliance placed on the judgment of the Commission dated 23.05.2013 in the case of R.K. Jain Vs. CIC, the replies given in response to the four queries namely 4, 5, 7 and 8 by the nodal CPIO is set-aside and he is directed to obtain the information from the concerned registries or provide access to the information seeker to peruse the records and get the required information. The CPIO is free to proceed in terms of the provisions of the RTI Act while replying again to these queries.”

In view of the above decision of the First Appellate Authority of the CIC , CPIO and Deemed CPIOs are required to provide the information as sought in the RTI application. Therefore, the impugned order is incorrect and illegal and liable to be set aside and the CPIO be directed to provide the information in time bound frame.

- (5) Recently a Division Bench of the Bombay High Court in the case of Sayyed Education Society v. State of Maharashtra-W.P. 1305/2011 decided on 12-2-2014 has held that public authorities are under a statutory obligation to maintain records and disseminate as per the provisions of section 4 of the RTI Act. The High Court, in this respect, specifically held as under:-

“20. Needless to state and as observed by the Hon’ble Apex Court in paragraph No. 14 in the case of C.B.S.E. and another (supra), Public Authorities are under an obligation to maintain records and disseminate the information in the manner provided under Section 4 of the RTI Act. The submission of the petitioner that it is an onerous task to supply documents, therefore, is required to be rejected. When the Law mandates preserving of documents, supplying copies thereof to an applicant, in our view, cannot be said to be an onerous task.”

In view of this decision of Bombay High Court, the information cannot

(3)

be denied on the ground of its non-maintenance, rather non-maintenance of records is an act of obstruction to the information with malafide intent and purpose and liable for penal action under section 20 of the RTI Act.

- (6) As per the Cabinet Secretariat's manual of Office Procedure and provisions of Section 4 of the RTI Act, every public authority is required to maintain proper records and non-maintenance of proper records cannot be a ground for denying information. In this regard, Hon'ble Delhi High Court in ***The Registrar, Supreme Court of India v. Commodore Lokesh K. Batra and Ors.; W.P.(C) 6634/2011 & CM No.13398/2011*** has held as under:

"12. However, the above principle (para 35 Aditya Bandhopadyay) cannot be used to deny information that is available with a public authority, but not in the form as is sought. In the present case, it is the petitioner's stand that it does not maintain the data "in the manner sought for" and thus, has no obligation to provide the same to the respondent no.1. This stand is, clearly, unsustainable....."

"15. The obvious intention of the Parliament is to ensure that information is available to the public in a form that is convenient to them. In this view, the petitioner's contention that it has no obligation to provide the information, if it is not maintained in the form in which the respondent no.1 seeks it, cannot be accepted."

In view of the above decision and statutory provisions, the information cannot be denied on the ground of non-maintenance when such information is required to be maintained in normal course or is otherwise available in any form with the public authority. Therefore, the impugned order is liable to be set aside with direction to provide point-wise information to the appellant within time bound frame.

- (7) That Shri Kripa Shanker, Asstt. Registrar and Deemed CPIO and Shri S.K. Verma, Asstt. Registrar (SM) and CPIO in relation to the information sought in point B(i) to (v) have denied the information claiming that it does not pertain to the Customs bench. In such situation, they should have

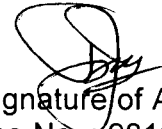
forwarded the RTI Application to the holder of the information or to the CPIO. Therefore, the order of the CPIO is liable to be set aside with direction to provide point-wise information to the appellant within time bound frame.

- (8) That the appellant has enclosed the list of the cases as received by him from the Registrar CESTAT, therefore, the information must be held by somebody in the CESTAT. In this circumstances, the stand of the CPIO and Deemed CPIOs is in contradiction to the information provided by the Registrar. 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.
- (9) That the CPIO has erred in not providing the 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.
- (10) That the information sought is neither voluminous nor relate to older and larger period, thus could have easily been provided by the learned CPIO.
- (11) 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.
- (12) That a personal hearing may be granted to the appellant before deciding the present appeal.
- (13) 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 imposition of penalty may also be recommended against the CPIO for not providing the complete and correct information.
- (d) That any other relief as the Appellate Authority deem fit and proper may also be ordered in favour of the appellant.
- (e) 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 : 25-11-2015

o/c

Annexure -1

9

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

Ref. No. :RTI/P-195/9481/15

Dated : 18-9-2015

To

Shri Rajender Prasad
CPIO & Accounts Officer
Customs Excise & Service Tax Appellate Tribunal,
West Block 2, R.K. Puram,
New Delhi - 110066

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	<p>(A) The President, CESTAT has granted permission for pronouncement of order beyond 4 months/6 months from the date of final hearing as per the attached list (Annexure-A) earlier provided to the applicant. In this respect, please provide the following information :-</p> <p>(i) Certified copy of the note / communication of the concerned members seeking such permission and also copy of the note of the Registry and copy of the order passed thereon by the President and the order No. and date when the order was finally pronounced.</p> <p>(ii) Please provide certified copies of all Orders/ records of proceedings in relation to the appeals shown in the enclosed list except final order/stay order.</p> <p>(iii) Please provide certified copies of all Vakalatnamas and no objections and date of filing the Vakalatnamas</p> <p>(B) As per the note dated 11-6-2013 of the Members in appeal No. E/6096-6099/2001, it is recorded that as per the Registry's note dated 8-5-2013, the file was wrongly sent by the SPS to the Registry. In this respect, please provide the following information:-</p> <p>(i) Please provide certified copy of all the note sheets put up by the Registry in the aforesaid appeals including the Note dated 8-5-2013.</p>

18 SEP 2015


Service Tax

Wazir Nagar

18/9/15

10

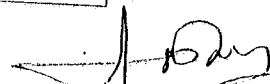
	<p>(ii) Please provide the Name of the SPS who has wrongly sent the file to the Registry and date on which the said file was returned by the Registry. Please also provide the Name of the Member of the said SPS and certified copies of the Daily Diary / Despatch Diary under which the said file was wrongly sent to the Registry and Daily Diary and Despatch Diary under which it was received by the said SPS from the Registry.</p> <p>(iii) Please provide the date when the concerned Registry wrongly received the said file and the date on which it was returned by the Registry. Please also provide certified copies of the Daily Diary/Despatch Diary of the concerned Registry about the wrong receipt of the aforesaid file and date of its return to the concerned Member.</p> <p>(iv) Please provide copies of all Supplementary cause lists in relation to the aforesaid appeals.</p> <p>(v) Please provide information whether President's permission was sought for re-hearing of the matter, if not, please provide the said information.</p> <p>Note:- Please provide point-wise information/ response for each of above points.</p>
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. 32F 041090 for Rs. 10 towards payment of fee is enclosed herewith. You are requested to filling the name in which the Postal Order is payable.
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

With reference to RTI No 09-110/14, please find enclosed herewith requisite information.

Appeal No
Gujrat maritime
E/430/12
C/740-744, 770-774/08
C/681/06
Oracle India and DHL Enterprises
C/S/419/12 in C/670/12
E/3648/2006-ExDB, E/2758/07-Ex, E/334/08-Ex
E/56/2009-Ex DB
E/989/2005-Ex DB
C/18/2009 Cu
C/Stay/3801/11 in C/639/11-Cu
C/Stay/58925/2013 in C/58264/13 Cu
C/Stay/59749 & 59750/13 in C/59071-59072/13 Cu
C/1324 & 1325/06 and C/14/2007
E/541-543, 971-974/06 Ex
E/1112, 1113, 1114/06 SM
E/1519/2010
E/3590/05-Ex
C/464-466/08
E/541/2007, E/2786/07, E/2652/08 & E/488/10
E/2268-2269/05 E/2257/06 & E/2268-2271/05
E/Stay/59735/2013 in E/58737/2013-Ex DB
E/1698/2011-SM
E/1862/2005 & E/1863/2005 Ex-DB
E/1862/2005 & E/1863/2005 Ex-DB


 Registrar 5/2

CPIO, CESTAT
 New Delhi

Ammeaure-2

12

F.No. 10-168/CESTAT/CPIO-ND/^{SKV}/2015

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

Dated 21/10/15

ID No. 10-168/15

To,

~~Shri R.K. Jain,~~
1512-B, Bhishm Pitamah Marg,
WAZIR NAGAR,
New Delhi - 110003

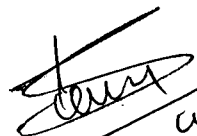
Subject: Information under Right to Information Act 2005.

Sir,

Please refer to your RTI application No. 9481/15 Dt. 18/9/15
and our ID No. 9481/15 the information received from RR-SM
containing 97 pages is enclosed herewith for your reference
please.

You are, Therefore, requested to please acknowledge the
receipt and deposit Rs. 194-(@2/- per page) to this Tribunal by
cash or DD in favour of Accounts Officer, CESTAT, New Delhi.

① Payment Received
P. Mehta on 21/10/15


a 24/10
(S.K. VERMA)
Asstt. Registrar/CPIO

Encl:- As above

Copy to:- Computer Section for Website

Good Note

By Him 21/10/2015

**CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
WEST BLOCK-2 R.K. PURAM NEW DELHI-110066**

DT. 19-10-2015

**Ref: SUPPLY OF INFORMATION IN RTI No. 9481/2015, ID NO
10-168/2014. SM (BR).**

Following information are supplied for informer for RTI information
seeker.

Point (A) Annexure A no. (i), (ii) and (iii) in connection of vide
appeal E/1112,1113,1114/2006 and E/1698/2011 SM.(BR.). Total
pages 97.

Point (B) not pertains to SM.(BR.)

CPIO

[Signature]
6/19/10

H.C. (RTI)

Your's Sincerely

[Signature] 19/10
(S. K. Verma)
Asst. Registrar/C.P.I.O.

o/c

Annexure - 3

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Customs Excise & Service Tax
Appellate Tribunal
26 OCT 2015
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
EXCISE LAW TIMES & SERVICE TAX REVIEW
and author of

Excise Law Guide; Central Excise Tariff of India;
Excise Law Manual; Customs Tariff of India;
Excise Law Manual; Excise & Customs Circulars
Clarifications; Excise & Customs Case Referencer;
Service Tax Law Guide; Service Tax Handbook;
Handbook of Duty Drawback on Goods &
Services; Valuation under Central Excise; Hand-
book of Foreign Trade Policy & Procedures

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

RTI/P-195/9481/15/R17090
23-10-2015

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

Sub: My RTI Application No. RTI/9481/15, dated 18/9/2015

Dear Sir,

This refers to your letter F.No.10-168/CESTAT/CPIO-ND/SKV/2015 dated 21.10.2015 and as desired, please find enclosed herewith a Pay Order No.022287 dated 23-10-2015 for Rs.194/-, drawn on AXIS Bank, Defence Colony, New Delhi.

Thanking you,

Yours faithfully,



[R.K. Jain]

Encl: As above

Annexure-4

13

F.No. 10-168 / CESTAT/CPIO-ND/SKV/2014
Customs Excise and Service Tax Appellate Tribunal
West Block No 2, R.K.Puram, New Delhi-110 066

Dated- 09/11/15

ID No. 10-168/2015

To,

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

Subject: Information under Right to Information Act 2005.

Sir,

Please refer to your RTI application No. 948/15 Dt. 18/9/15
and our ID No. 10-168/15 and First Appellate Order no. -----
the information received from ~~AP Customs~~ containing 1
pages is enclosed herewith for your reference please.

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

If the applicant is aggrieved, he may file an appeal under
section 19 of RTI Act within thirty days before Honble FAA.
CESTAT New Delhi.


(S.K. Verma) 09/11
CPIO CESTAT, New Delhi

Encls:- As above

Copy to:- Computer section for website

V-16918
Gandhi Park

16

CUSTOMS, SERVICE TAX & ANTIDUMPING BRANCH

I.D.No.10-168/2015

With reference to I.D.No.10-168/2015 dated 28.9.2015 , the information sought by you vide point (A) regarding permission for pronouncement of order beyond 4 months & 6 months from the date of final hearing . In this regard it is submitted that no such record is maintained in this bench Registry. So, you are requested to provide the specific Appeal Number in which the information is required.

In respect to the point (B) it is submitted that information sought donot pertains to this bench registry.

Dated:05.11.2015

Asstt. Registrar.

MS
05/11/15
CPIO

MS
05/11/15

Copy to:-

- ✓ 1.CPIO.
- 2.O/c.

A.R.

Sps to FAA

10-131(A)/2015

①

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

Ref. No. : RTI/P-537/(9589/15)/Appeal/16107

Dated : 28-12-2015

1st Appellate Authority Under RTI Act, 2005,
Customs, Excise & Service Tax Appellate Tribunal,
West Block 2, R.K. Puram,
New Delhi - 110066

Customs Excise & Service Tax
Appellate Tribunal

28 DEC 2015

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, Bhisim 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	(1) Shri S.K.Verma CPIO (2) Shri Mukesh Gupta – Assistant Registrar (Administration), Deemed CPIO (3) Shri A. Mohan Kumar, Registrar and Deemed 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)	03-11-2015	
3.	Details of the order appealed against	Letter ID No.10-227/2015 dated 17-11-2015 received on 21-11-2015	
4.	Prayer or relief sought	See Prayer clause at the end	
5.	Last date for filing the appeal	21-12-2015	
6.	Whether Appeal in Time.	There is a delay of seven days in filing the appeal as the appellant has an eye surgery on 11-12-2015 and was advised rest. Therefore, the delay of seven days in filing the appeal may be condoned, being bonafide and there being a sufficient	

127/15024/15 (R72)
29/12/15

By No. 4775 To ER 15
28/12/15

		reason for delay.
7.	Copies of documents relied upon by the applicant	1. Copy of RTI Application dated 3-11-2015. (Annexure-1) 2. Copy of CPIO letter dated 17-11-2015. (Annexure-2)

BRIEF FACTS OF THE CASE

(1) That the appellant has filed an application dated 03-11-2015 (**Annexure – 1**) under Section 6 of the RTI Act, 2005 requesting for the following information:

(A) *Please provide list of the communications received from Shri Ashok Arya - Member (Technical) from 1-6-2015 till date and addressed to the President, CESTAT / Registrar, CESTAT and datewise details of the action taken thereon. Please also provide inspection of the files in which they have been dealt with.*

(B) *Please provide the date and diary under which the application / request dated 12-10-2015 of Shri S.K. Verma for regularisation of leave from 19-6-2008 to 21-8-2008 has been received. Please intimate the file number in which it is dealt with. Please provide datewise details of the action taken thereon. Please provide copies of all notesheets and correspondence pages of the said file from 1-10-2015 till date. (This information is also held by the Office of the President, CESTAT / Registrar, CESTAT)/ AR (Admn.).*

(C) *Please provide date and diary under which the Ministry of Finance letter F.No.27/49/Ad.IC, dated 16-9-2015 regarding transfer policy has been received. Please intimate the file number in which it is dealt with. Please provide datewise details of the action taken thereon and copies of all notesheets and correspondence pages of the said file from 1-9-2015 till date. (This information is also held by the Office of the Hon'ble President, CESTAT / Registrar, CESTAT) / AR (Admn.).*

(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 Shri S.K.Verma, CPIO, Shri Mukesh Gupta – Assistant Registrar (Administration), Deemed CPIO and Shri A. Mohan Kumar, Registrar and Deemed CPIO have deliberately and malafidely not provided complete and correct information as sought by the appellant. The appellant being aggrieved by the said order of the CPIO is filing the present appeal.

GROUND 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 information sought by the appellant is not exempted under Section 8 or 9 or any other provisions of the RTI Act, 2005, therefore, there was no valid cause or reason or ground for not providing the information.
- (3) That Shri S.K.Verma, CPIO & Assistant Registrar, CESTAT, deliberately and malafidely did not endorse the copy of his letter dated 5-11-2015 forwarding the RTI Application to the Deemed CPIOs, despite the specific directions of the First Appellate Authority. He has done so with the malafide intent and purpose of delaying and denying the information, as the information sought also related to 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 and he is liable for penalty under section 20(1) of the RTI Act and recommendation for disciplinary action under section 20(2) of the RTI Act, for delaying and obstructing the information in question, without any reasonable cause.
- (4) That Shri S.K. Verma, CPIO & Asstt. Registrar, deliberately and malafidely, did not forward / transferred the RTI Application to the Registrar, CESTAT, though the appellant in Point (B) & (C) of the RTI Application specifically pointed out that the information in question is also held by the Registrar, CESTAT and Moreover, Shri S.C. Das, Deemed CPIO and SPS of the President, CESTAT, in his response dated 9-11-2015, has clearly stated that the communication received from Shri Ashok Arya has been sent to the Registrar, still Shri S.K. Verma, Asstt. Registrar

(SM) and Former CPIO, has not forwarded the RTI Application nor sought the information from the Registrar, CESTAT, though it was in his knowledge that the information is held by the Registrar, CESTAT. He, has, therefore, in connivance with Shri Mukesh Gupta – Assistant Registrar (Administration), Deemed CPIO, obstructed the information. Therefore, the orders of the CPIO / Deemed CPIO are liable to be set aside with direction to provide point-wise information to the appellant within time bound frame and they are liable for penalty under section 20(1) of the RTI Act and recommendation for disciplinary action under section 20(2) of the RTI Act, for delaying and obstructing the information in question, without any reasonable cause.

(5) That Shri Mukesh Gupta – Assistant Registrar (Administration), Deemed CPIO, has deliberately and malafidely and in connivance with Shri S.K. Verma, Asstt. Registrar (SM) and Former CPIO, denied the information as sought by the appellant in Point (A) & (B) of the RTI Application, claiming to be personal records exempted under Section 8(1)(j) of the RTI Act. Whereas the information sought was in relation to the official functioning of the CESTAT and was not personal, therefore, it has wrongly been denied on the false pretext being personal records exempted under Section 8(1)(j) of the RTI Act. Therefore, the orders of the Shri S.K. Verma, Asstt. Registrar (SM) and Former CPIO and Shri Mukesh Gupta – Assistant Registrar (Administration), Deemed CPIO are liable to be set aside with direction to provide point-wise information to the appellant within time bound frame and they are also liable for penalty under section 20(1) of the RTI Act and recommendation for disciplinary action under section 20(2) of the RTI Act, for delaying and obstructing the information in question, without any reasonable cause.

(6) That Shri Mukesh Gupta – Assistant Registrar (Administration), Deemed CPIO, has deliberately and malafidely denied the information as sought by the appellant in Point (C) of the RTI Application. If the information was not held by him, this part of the RTI Application should have been forwarded by him to the holder of the information. Even Shri S.K. Verma, Asstt. Registrar (SM) and Former CPIO, has a duty to forward the RTI

Application to the holder of the information, which he has deliberately failed to do so. Shri S.K. Verma, Asstt. Registrar (SM) and Former CPIO and Shri Mukesh Gupta – Assistant Registrar (Administration), Deemed CPIO are in connivance with each other to obstruct the information with malafide intent and purpose. Therefore, the orders of the Shri S.K. Verma, Asstt. Registrar (SM) and Former CPIO and Shri Mukesh Gupta – Assistant Registrar (Administration), Deemed CPIO are liable to be set aside with direction to provide point-wise information to the appellant within time bound frame and they are liable for penalty under section 20(1) of the RTI Act and recommendation for disciplinary action under section 20(2) of the RTI Act, for delaying and obstructing the information in question, without any reasonable cause.

- (7) That Shri S.K. Verma, Asstt. Registrar (SM) and Former CPIO and Shri Mukesh Gupta – Assistant Registrar (Administration), Deemed CPIO have failed to provide complete information as sought by the appellant in Point (A) of the RTI Application inasmuch as the datewise details of the action taken on the communication of Shri Ashok Arya, has not been provided nor the inspection of the relevant file has been provided, despite specific request nor such request has been turned down. Shri Mukesh Gupta – Assistant Registrar (Administration), Deemed CPIO, has denied the information as sought in Point (A) of the RTI Application though the information in question was held by the Registrar, as per report of the SPS to the President, CESTAT. Shri S.K. Verma, Asstt. Registrar (SM) and Former CPIO and Shri Mukesh Gupta – Assistant Registrar (Administration), Deemed CPIO are in connivance with each other to obstruct the information with malafide intent and purpose. Therefore, the orders of the Shri S.K. Verma, Asstt. Registrar (SM) and Former CPIO and Shri Mukesh Gupta – Assistant Registrar (Administration), Deemed CPIO are liable to be set aside with direction to provide point-wise information to the appellant within time bound frame and they are liable for penalty under section 20(1) of the RTI Act and recommendation for disciplinary action under section 20(2) of the RTI Act, for delaying and obstructing the information in question, without any reasonable cause.

- (8) That Shri S.K. Verma, Asstt. Registrar (SM) and Former CPIO and Shri Mukesh Gupta – Assistant Registrar (Administration), Deemed CPIO have failed to provide complete information as sought by the appellant in Point (B) of the RTI Application inasmuch as the file number in which the representation of Shri S.K. Verma, Asstt. Registrar (SM) and Former CPIO was dealt with has not been provided and Shri Mukesh Gupta – Assistant Registrar (Administration), Deemed CPIO has denied the disclosure of file number as a personal information under Section 8(1)(j) of the RTI Act. The CPIO / Deemed CPIO have also not provided datewise details of the action taken on the representation of Shri S.K. Verma, Asstt. Registrar (SM) and Former CPIO regarding regularisation of his unauthorised absent from duty. The Deemed CPIO also denied copies of all notesheets and correspondence pages of the file in question being personal information. Shri S.K. Verma, Asstt. Registrar (SM) and Former CPIO and Shri Mukesh Gupta – Assistant Registrar (Administration), Deemed CPIO are in connivance with each other to obstruct the information with malafide intent and purpose. Therefore, the orders of the Shri S.K. Verma, Asstt. Registrar (SM) and Former CPIO and Shri Mukesh Gupta – Assistant Registrar (Administration), Deemed CPIO are liable to be set aside with direction to provide point-wise information to the appellant within time bound frame and they are liable for penalty under section 20(1) of the RTI Act and recommendation for disciplinary action under section 20(2) of the RTI Act, for delaying and obstructing the information in question, without any reasonable cause.
- (9) That Shri S.K. Verma, Asstt. Registrar (SM) and Former CPIO has deliberately and malafidely not provided the complete information as sought by the appellant in Point (C) of the RTI Application, inasmuch as he has not provided the file number in which the letter dated 16-9-2015 of the Finance Ministry has been dealt with and datewise details on the action taken thereon as well as copies of notesheets and correspondence pages of the said file. The information in question was stated to have been held by the Office of the Registrar, CESTAT, but Shri S.K. Verma, Asstt. Registrar (SM) and Former CPIO did not forwarded the said RTI

Application to him with the malafide intention of obstruction the information without any reasonable cause. 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 and he is liable for penalty under section 20(1) of the RTI Act and recommendation for disciplinary action under section 20(2) of the RTI Act, for delaying and obstructing the information in question, without any reasonable cause.

- (10) That the CPIO has erred in not providing the 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.
- (11) That the information sought is neither voluminous nor relate to older and larger period, thus could have easily been provided by the learned CPIO.
- (12) 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.
- (13) That there is a delay of seven days in filing the appeal as the appellant has an eye surgery on 11-12-2015 and appellant was advised rest by the Doctor. Therefore, the delay of seven days in filing the appeal may be condoned, being bonafide and there being a sufficient reason for such delay
- (14) That a personal hearing may be granted to the appellant before deciding the present appeal.
- (15) 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 delay of 7 days in filing the appeal may kindly be condoned.
- (b) That the Original Records may be summoned and perused.
- (c) That the order of the CPIO / Deemed 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.
- (d) That imposition of penalty may also be recommended against the CPIO / Deemed CPIO for not providing the complete and correct information.
- (e) That any other relief as the Appellate Authority deem fit and proper may also be ordered in favour of the appellant.
- (f) 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 : 28-12-2015

etc

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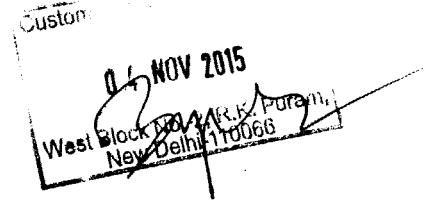
(9)

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

Ref. No. :RTI/P-195/9589/15
Dated : 3-11-2015

To

Shri S.K.Verma
CPIO & Asst. Registrar
Customs Excise & Service Tax Appellate Tribunal,
West Block 2, R.K.Puram,
New Delhi – 110066



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	<p>(A) Please provide list of the communications received from Shri Ashok Arya - Member (Technical) from 1-6-2015 till date and addressed to the President, CESTAT / Registrar, CESTAT and datewise details of the action taken thereon. Please also provide inspection of the files in which they have been dealt with.</p> <p>(B) Please provide the date and diary under which the application / request dated 12-10-2015 of Shri S.K. Verma for regularisation of leave from 19-6-2008 to 21-8-2008 has been received. Please intimate the file number in which it is dealt with. Please provide datewise details of the action taken thereon. Please provide copies of all notesheets and correspondence pages of the said file from 1-10-2015 till date. (This information is also held by the Office of the President, CESTAT / Registrar, CESTAT/ AR (Admn.).</p> <p>(C) Please provide date and diary under which the Ministry of Finance letter F.No.27/49/Ad.IC, dated 16-9-2015 regarding transfer policy has been received. Please intimate the file number in which it is dealt with. Please provide datewise details of the action taken thereon and copies of all notesheets and correspondence pages of the said file from 1-9-2015 till date.</p>

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		<p>(This information is also held by the Office of the Hon'ble President, CESTAT / Registrar, CESTAT) / AR (Admn.).</p> <p>Note:-Please provide point-wise information/ response for each of above points.</p>
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. 32F 100330 for Rs. 10 towards payment of fee is enclosed herewith. You are requested to filling the name in which the Postal Order is payable.	
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
11/11/2009-9589