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11-52(A)/2016

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

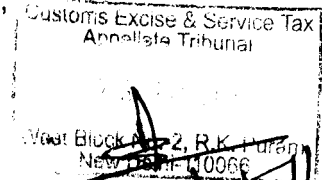
23/SKM/RTI/16
24/5/16

Ref. No. :RTI/P-537/(9870/16)/Appeal/16299

Dated : 23-05-2016

To

1st Appellate Authority Under RTI Act, 2005,
Customs, Excise & Service Tax Appellate Tribunal,
West Block 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	(1) Shri V.P. Pandey CPIO & Assistant Registrar (Central Excise Bench) (2) Shri Mohinder Singh, Dy. Registrar and Deemed CPIO (3) Assistant Registrar & Deemed CPIO (Single Member Bench)
		(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)	19-04-2016	
3.	Details of the order appealed against	Letter ID No. 11-73/2016 dated 12-5-2016 (wrongly mentioned 12-4-2016)	
4.	Prayer or relief sought	See Prayer clause at the end	
5.	Last date for filing the appeal	12-6-2016	

6.	Whether Appeal in Time.	Appeal in time
7.	Copies of documents relied upon by the applicant	<ol style="list-style-type: none">1. Copy of RTI Application dated 19-4-2016. (Annexure-1)2. Copy of CPIO's letter dated 21-4-2016 (Annexure-2)3. Copy of CPIO's letter dated 12-4-2016 (Annexure-3)4. Copy of DR/CPIO's letter dated 3-5-2016 (Annexure-4)5. Copy of Deemed CPIO's letter dated 6-5-2016 (Annexure-5)6. Copy of Deemed CPIO's letter dated 10-5-2016 (Annexure-6)7. Copy of appellant's letter dated 2-5-2016 (Annexure-7)8. Copy of appellant's letter dated 2-5-2016 (Annexure-8)9. Copy of appellant's letter dated 2-5-2016 (Annexure-9)10. Copy of appellant's letter dated 2-5-2016 (Annexure-10)11. Copy of appellant's letter dated 2-5-2016 (Annexure-11)12. Copy of appellant's letter dated 2-5-2016 (Annexure-12)13. Copy of appellant's letter dated 2-5-2016 (Annexure-13)14. Copy of appellant's letter dated 2-5-2016 (Annexure-14)

BRIEF FACTS OF THE CASE

(1) That the appellant has filed an application dated 19-04-2016 (**Annexure – 1**) under Section 6 of the RTI Act, 2005 requesting for the following information:

(A) Please provide details of cases in which orders were reserved by the Benches (including Single Member Benches) at CESTAT, Delhi, from 1-6-2015 till the date of providing the information, but orders were not pronounced within 60 days. Please indicate appeal No., name of

parties and the date on which the orders were reserved and date of pronouncement and date of dispatch to parties, if order is already pronounced and if still pending decision, kindly provide such information, indicating the name of the concerned Members with whom it is pending.

- (B) Please provide details of cases in which operative part of order was pronounced in open court by Benches (including Single Member Benches) at CESTAT, Delhi, from 1-6-2015 but detailed order has not been pronounced/issued within 60 days. Please provide details of the appeal No., Name of Party, Name of Lawyer and the date on which the operative order was pronounced. In case, matter is still pending, please also provide such information.*
- (C) Please provide copies of the records of proceedings in relation to the cases referred to in Point (A) & (B) above.*
- (D) Please provide details of cases which are marked part-heard by the Benches at CESTAT Delhi, from 1-6-2015 till date of providing information. Please also indicate the appeal No. and name of parties and date on which it was marked part-heard and current status of such cases. In case it has been decided, provide order No. and date.*
- (E) Please provide details of the difference opinion matters pending as on 1-4-2016 at various Benches of the CESTAT at New Delhi, Bombay, Kolkata, Madras, Chennai, Bangalore and Ahmedabad. Please also provide details as to names of the parties, Appeal No., Order No. and date, by which difference opinion was recorded.*
- (F) Please provide details of the Larger Bench references which are pending decision or waiting for constitution of Larger Bench as on 1-4-2016 at various Benches of the CESTAT at New Delhi, Bombay, Kolkata, Madras, Chennai, Bangalore and Ahmedabad. Please also provide details as to names of the parties, Appeal No., Order No. and date, by which matter was referred to Larger Bench.*

(G) Please provide list of the orders which have been dispatched beyond 10 days of their passing and please also indicate the days taken at the level of the PS to the Member and the Assistant Registrar of concerned Bench and the Dispatch Section. The information may be provided for the orders passed after 1st June, 2015 till the date of providing information. Information can be provided in the form it is suitable and convenient to you.

Note (1) The above information is also held by the Registrar, O/o the President, AR/DR of the Concerned bench, therefore this application may also be forwarded/ transferred to them.

(2) Since the above information is held by the CESTAT officials therefore it is not deniable as not maintained. The information and copies of records may be provided in the form it is held or is convenient.

(3) The applicant has learnt that the orders are being issued by CESTAT in violation of the prescribed procedure and without due permission of President or the permission obtained on misrepresentation, therefore the information is sought in larger public interest.

Note:-Please provide point-wise information/response for each of above points.

(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 V.P. Pandey, CPIO has 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 V.P. Pandey, CPIO and Assistant Registrar (Excise), Shri Mohinder Singh, Dy. Registrar (Customs, Service Tax and Antidumping Branch) and Deemed CPIO, Assistant Registrar, Single Member Bench and Deemed CPIO, and S.P.S. to the Hon'ble Members, have deliberately and malafidely not provided the information as sought in the RTI Application. Therefore, they may be directed to provide the information in question to the appellant within time bound frame.
- (4) 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.
- (5) That the information sought is neither voluminous nor relate to older and larger period, thus could have easily been provided by the learned CPIO.
- (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 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 : 23-05-2016

Received on
4/08/16

APPELLATE AUTHORITY
UNDER RIGHT TO INFORMATION ACT, 2005
Customs, Excise & Service Tax Appellate Tribunal
West Block-2, R.K. Puram, New Delhi-66.

Appeal No.11-067(A)/CESTAT/FAA- SKM/2016
Appeal No.10-052(A)/CESTAT/FAA- SKM/2016
CPIO ID NO. 10-73/2016

Shri R.K.Jain ...Appellant

Vs.

CPIO, CESTAT ...Respondent

Date of decision: 20.07.2016

ORDER 29/16

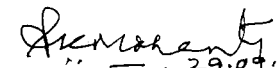
Pursuant to appeal filed by the appellant, the CPIO submits that the information with regard to Point No. 4A, concerning the copy of order reserve register has already been provided. With regard to Point Nos. 4B & 4D, the submission of the CPIO is that the list called for by the appellant are not maintained in the Registry. With regard to Point No. 4C, the CPIO has no objection in providing the information, but he submits that the appellant has to specifically state as to the appeal reference viz. Numbers, name of party etc. in advance. He further submits that with regard to Point No. 4E & 4F, the information have already been provided vide letter dated 30.05.2016 etc.

2. I accept the submissions of CPIO. Since the information in respect of Point Nos. 4A, 4E & 4F have already been provided to the appellant, the appeal filed by him is not maintainable, and thus, is dismissed.

3. With regard to Point No. 4B & 4D, since no specific lists are being maintained in the Registry, the same cannot be furnished. Accordingly, the appeal is dismissed.

4. As regards, Point NO. 4C, I direct the appellant to furnish the information regarding the appeal, specifying the number, name of party etc., for which the information is required. On receipt of specific request from the appellant with regard to the particulars of appeal, the same shall be furnished by the CPIO within 4 weeks from the date of receipt of the request letter.

5. The appeal is disposed of in above terms.


29.07.2016
(S.K. MOHANTY)
APPELLATE AUTHORITY

Copy to:-

1. Shri.R.K.Jain, 1512-B, Bhishm Pitamah Marg, Wazir Nagar, New Delhi-110003,
2. CPIO, CESTAT, New Delhi.