

1386/CR-16
24/5/16

11-SS(A)/2016

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

210/SSCA/RTI/16
24/5/16
To

Ref. No. :RTI/P-537/(9872/16)/Appeal/16300

Dated : 23-05-2016

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

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

23/05/16

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 (2) Shri A. Mohan Kumar, Registrar and Deemed CPIO (3) Shri Mohinder Singh, Dy. Registrar Customs Bench, Deemed CPIO (4) Assistant Registrar, Single Member Bench & Deemed CPIO (5) SPS to Hon'ble Members & Deemed CPIOs
		(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. 11-74/2016 dated 12-5-2016	
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 letter dated 21-4-2016. (Annexure-2) 3. Copy of CPIO letter dated 12-5-2016. (Annexure-3) 4. Copy of letter to Registrar dated 2-5-2016. (Annexure-4) 5. Copy of letter to SPS to Hon'ble President dated 2-5-2016. (Annexure-5) 6. Copy of letter to DR/AR, SM dated 2-5-2016. (Annexure-6) 7. Copy of letter to DR/AR, Excise dated 2-5-2016. (Annexure-7) 8. Copy of letter to DR/AR, Customs, ST & AD dated 02-5-2016. (Annexure-8)
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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 the following information in relation to all the Benches of CESTAT at New Delhi, Mumbai, Kolkata, Chennai, Ahmedabad and Bangalore:-

(i) Please provide the copies of all orders, notes put up by the Hon'ble Members and by the CESTAT Registry for seeking pronouncement of orders beyond the period of 4 months and beyond the period of six months from the date of final hearing. This information may be provided from 1-6-2015 till the date of providing the information.

(ii) Please provide details of cases in which the permission sought in relation to the cases covered under point (G) above has been granted by the President and name of the members who made such request.

(iii) Please provide list of cases in which the permission sought in relation to the cases covered under point (G) above has been rejected by the President and name of the members who made such request.

(iv) Please provide details of the actual date when the order was ultimately pronounced in relation to the cases referred to in point (G) above.

(v) Please provide details of appeals/application which have been listed without issuing notice of hearing to the parties, from 1.6.2015 till date of providing the information as Bombay High Court in the case of *Tenzeem Printers Vs. Commissioner 2016 (334) E.L.T 527* has held that CESTAT cannot hear and decide cases without issuing hearing notices.

(B) Please provide the details of the cases in which the orders have been pronounced without obtaining permission from CESTAT, beyond 4 months from the date of reserving the order. The information in this respect may be provided from 1-4-2013 till the date of providing the information.

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 and other 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, 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 Bench and Deemed CPIO, Assistant Registrar, Single Member Bench & Deemed CPIO, have not provided any information for the information sought by the appellant, despite the RTI Application having been transferred to them. Therefore, they may be directed to provide the information in question to the appellant within time bound frame.
- (4) That Shri V.P. Pandey, CPIO and Assistant Registrar (Excise) has deliberately and malafidely not forwarded the RTI Application to the SPS to the Hon'ble Members with a view to cause obstruction to the information. 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 after obtaining it from the holder of the information 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.
- (5) 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.
- (6) That the information sought is neither voluminous nor relate to older and larger period, thus could have easily been provided by the learned CPIO.

- (7) 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.
- (8) That a personal hearing may be granted to the appellant before deciding the present appeal.
- (9) 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
04/08/16*

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.11-55(A)/CESTAT/FAA- SKM/2016
CPIO ID NO. 11-74/2016

Shri R.K.Jain ...Appellant

Vs.

CPIO, CESTAT ...Respondent

Date of decision: 20.07.2016

ORDER *28/16*

The issue involved in this appeal relates to submission of information on the order reserve/ DOTF matters. Pursuant to appeal, the CPIO submits that no such records are being maintained in the Registry. However, the information can be furnished, if the appellant provides the reference of appeal viz. Number, party etc. In context with the issue involved in this case, the CPIO brought to the notice of FAA, the letter dated 06.05.2015, wherein the Registrar has accorded his permission for inspection of the judicial files maintained in the Office of the Registrar.

2. Considered the submission of the CPIO. I direct the appellant to furnish the details of case/ appeal, for which he requires the information. For the said purpose, he may inspect the judicial file maintained in the Office of the Registrar. On receipt of request letter from the appellant with regard to the specific appeal, the CPIO shall furnish the information within 4 weeks thereafter. The appeal is disposed of in above terms.

S.K. Mohanty
(S.K. MOHANTY) *29.07.16*
APPELLATE AUTHORITY

Copy to:-

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