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11-57(A)/2016

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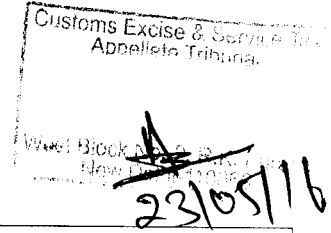
**First Appeal under Section 19 of the Right to Information Act, 2005**

Ref. No. : RTI/P-537/(9904/16)/Appeal/16307

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 (2) 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)	25-04-2016	
3.	Details of the order appealed against	Letter ID No. 11-80/2016 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	1. Copy of RTI Application dated 25-4-2016. <b>(Annexure-1)</b> 2. Copy of CPIO letter dated 29-4-2016. <b>(Annexure-2)</b>	

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		3. Copy of CPIO letter dated 12-5-2016. <b>(Annexure-3)</b>
		4. Copy of CPIO letter dated 16-5-2016. <b>(Annexure-4)</b>

### BRIEF FACTS OF THE CASE

(1) That the appellant has filed an application dated 25-04-2016 (**Annexure – 1**) under Section 6 of the RTI Act, 2005 requesting for the following information:

(A) *Please provide inspection of the following files held by the Office of the Registrar :*

- (i) *File No. 01(02)K/Judl./CESTAT/2016*
- (ii) *File No. 01(03)/LB/CESTAT/2016*
- (iii) *File No. 01(04)/Tour/CESTAT/2016*
- (iv) *File No. 01(35)/DOO/CESTAT/Reg/2016*
- (v) *File No. 01(05)/Legal Notice/Bansal/CESTAT/Reg./2016*
- (vi) *File No. 01(06)/Appl.-President /CESTAT/Reg.2016*
- (vii) *File No. 01(02)R/Judl/ CESTAT/2015*
- (viii) *File No.01(03)/Reg/CESTAT/2015*
- (ix) *File No.01(04)/Regional Bench/CESTAT/2015*

(B) *Please provide details of the Registers, records, files and digital data held by the Registrar or by the Office of the Registrar, CESTAT.*

(C) *Please provide copies of peon book of the Office of the President, Registrar, Dy. Registrar (Admn.), CT Section and Accounts Section from 1-1-2015 till the date of providing the information.*

(D) *Please provide copies of dak register (inward) and dak register (outward) and daily diary of the Registrar for the following period*

- (i) *1-9-2015 to 31-12-2015*
- (ii) *17-3-2016 till the date of providing the information*

(E) *Please provide copies of File Movement Register of the Registrar for the following period*

- (i) 1-1-2013 to 31-12-2013
- (ii) 1-9-2015 to 31-12-2015
- (iii) 1-1-2016 till date of providing the information.

(F) Please provide datewise details and the copies of the action taken on the mention made in the open Court by Shri R.K. Jain, President, Bar Association on 27-11-2013, as per the note of the Court Master

(G) Please provide total number of files held by the Registrar, CESTAT and the Office of the Registrar, CESTAT. Please also provide details or list of such files in whatever form they are available.

**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 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.
- (4) The Shri V.P. Pandey, CPIO and Shri A. Mohan Kumar, Registrar and Deemed CPIO are deliberately and malafidely obstructing the information without any reasonable cause therefore they are liable for penal action. The First Appellate Authority is not empowered to take action under section 20 of the RTI Act, therefore the appellant reserves his right to move direct complaint to CIC u/s 18 of the RTI Act.

(5)

#### **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

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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 Shri A. Mohan Kumar, Registrar and Deemed CPIO have deliberately and malafidely denied the information as sought in point (F) & (G) of the RTI application, on the false pretext that the details / list is not being maintained. Moreover, mere non-maintenance of maintainable records cannot be a ground for denial of information. Moreover, such records are being maintained in the normal course. Therefore, the order of the CPIO and Deemed CPIO is liable to be set aside with direction to provide point-wise information to the appellant within time bound frame.
- (4) That the Registrar has offered of records upto 20-5-2016 but the inspection could not be undertaken by the appellant despite repeated visits to the office of the Registrar, as the Registrar was on leave. Therefore the appellant requests for another date for inspection.
- (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  
03/08/2016

**APPELLATE AUTHORITY  
UNDER RIGHT TO INFORMATION ACT, 2005  
CUSTOMS, EXCISE AND SERVICE TAX  
APPELLATE TRIBUNAL,  
WEST BLOCK 2, R.K. PURAM, NEW DELHI – 110 066**

**Date of Hearing/decision: 20.07.2016**

**Appeal No.11-57 (A)/CESTAT/FAA/SKM/2016**

**CPIO, I.D. No. 11-80/CESTAT/CPIO-VP/2016**

Sh. R.K.Jain

Appellant

Vs.

Sh. V.P. Pandey, Asst. Registrar/CPIO

Respondent

**ORDER** 108/2016

Pursuant to the appeal filed by the appellant, the CPIO vide his written submission dated 14/07/2016 has submitted that with regard to point No. 'A', the reply dated 10/05/2016 received from the office of the Registrar has already been provided to the appellant and the inspection of the records/documents has also been allowed. With regard to other points, he stated that the reply has also been provided to the appellant.

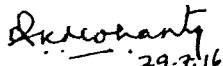
2. I find that receipt of the written submission of CPIO has been acknowledged by the appellant vide his letter dated 19/07/2016. Further, the appellant has also filed the reply to the written submission stating interalia, that information as sought for points 'A', 'D' and 'E' has been provided and with regard to points 'B' and 'C', only part information has been provided by the CPIO. It has further been stated by the appellant that with regard to points 'F' and 'G', denial of information by CPIO on the pretext of documents/records being not maintained is not correct in as much as the information are held and maintained by the CESTAT.

3. Since, the appellant claims that the part information with regard to points 'B' and 'C' have been provided, I direct the CPIO to take up

*Asst.*

the matter with the appellant to ascertain what are the other information required by him, and thereafter furnish the available information to the appellant on receipt of request letter from him within the reasonable time. With regard to points 'F' and 'G', the appellant has not specified any details about maintenance of information in the Registry. Thus, in absence of any specific substantiation, I have no option but to accept the submissions made by the CPIO in his written submission that the information sought for have already been provided to the appellant.

4. The appeal is disposed of in above terms..

  
(S.K. Mohanty)  
Appellate Authority

Copy to :-

1. Sh. R.K.Jain, 1512, Bhishm Pitamah Marg  
Wazir Nagar, New Delhi-110 003.
2. Shri V.P. Pandey, Asst. Registrar/CPIO, CESTAT, New Delhi.
3. Office copy