

11-63(A)/2016

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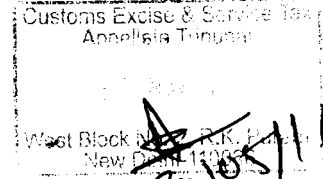
First Appeal under Section 19 of the Right to Information Act, 2005

Ref. No. :RTI/P-537/(9799/16)/Appeal/16324

Dated : 27-05-2016

To

Shri S.K. Mohanty
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 Bineesh Kumar, Dy. Secretary (Admn.) & Deemed CPIO (3) Shri Sunil Kumar, Technical Officer and Deemed CPIO (4) 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	30-03-2016	
3.	Details of the order appealed against	Letter ID No. 11-47/2016 dated 16-5-2016	
4.	Prayer or relief sought	See Prayer clause at the end	
5.	Last date for filing the appeal	16-6-2016	
6.	Whether Appeal in Time.	Appeal in time	
7.	Copies of documents relied	1. Copy of RTI Application dated 30-3-	

upon by the applicant	2016. (Annexure-1) 2. Copy of CPIO letter dated 1-4-2016. (Annexure-2) 3. Copy of CPIO letter dated 16-5-2016. (Annexure-3)
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BRIEF FACTS OF THE CASE

- (1) That the appellant has filed an application dated 30-03-2016 **(Annexure – 1)** under Section 6 of the RTI Act, 2005 requesting for the information specified therein.
- (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, Shri Bineesh Kumar, Dy. Secretary (Admn.) & Deemed CPIO and Shri Sunil Kumar, Technical Officer 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 Shri V.P. Pandey, CPIO, Shri Bineesh Kumar, Dy. Secretary (Admn.) & Deemed CPIO and Shri Sunil Kumar, Technical Officer and Deemed CPIO, have deliberately and malafidely not provided complete and correct information as sought by the appellant. 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.
- (3) That Shri Bineesh Kumar, Dy. Secretary (Admn.) & Deemed CPIO, has denied the information as sought in Point (A) & (B) of the RTI Application on the ground that it is not available in the records of the Administration.

The information sought by the appellant relates to the sanction strength of the staff and details of the vacancy in the office of the Public Authority. Such information is maintain in the normal course and is readily available. The Deemed CPIO is withholding the information with a view to cause obstruction without any reasonable cause. Therefore, the order of the Shri Bineesh Kumar, Dy. Secretary (Admn.) & Deemed 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 Bineesh Kumar, Dy. Secretary (Admn.) & Deemed CPIO, has denied the information for Point (D) of the RTI Application, on the ground that the subject matter is dealt with by the CT Section, but no information from CT Section has been provided. The CPIO and the Deemed CPIO are withholding 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.
- (5) That the CPIO and Deemed 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 Deemed CPIO is liable to be set aside with direction to provide point-wise information to the appellant within time bound frame.
- (6) That Shri Bineesh Kumar, Dy. Secretary (Admn.) & Deemed CPIO, has wrongly denied the information as sought in Point (E)(i), (ii) & (iii) of the RTI Application on the ground of non-availability . Such information are required to be maintained by the Administration. Therefore, the order of the Deemed CPIO is liable to be set aside with direction to provide point-wise information to the appellant within time bound frame.
- (7) That Shri A. Mohan Kumar, Registrar and Deemed CPIO has deliberately and malafidely not provided the information as sought in Point (F) of the RTI Application. The appellant has sought specific information and offering

inspection of one file is not a substitute of providing the information as held by the CIC in the case of Brig. Davinder Singh Grewal v. Police Deptt. by order dated 7-8-2012. In this case, it was held that when specific information is sought by the applicant, then mere offering of inspection of records, is not sufficient compliance to the provisions of the RTI Act. Therefore, the order of Shri A. Mohan Kumar, Registrar and Deemed 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.

- (8) That the Shri Sunil Kumar, Technical Officer and Deemed CPIO, has not provided the complete and correct information as sought in Point (G) & (H) of the RTI Application. He has neither provided the name of the parties, appeal numbers, date of filing and amount of duty, penalty & interest involved in relation to pending appeals as well as in relation to decided appeals. Therefore, the order of Shri Sunil Kumar, Technical Officer and Deemed 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.
- (9) That the information sought by the appellant in the present RTI Application is the one, which is mostly to be proactively disclosed under Section 4 of the RTI Act, but the CPIO and Deemed CPIOs are not complying with the provisions of Section 4 of the RTI Act and even denying the said information on the RTI Application. 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 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 : 27-05-2016

Received on 23/08/16

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.11-063(A)/CESTAT/FAA-SKM/2016
CPIO ID NO. 11-47/2016

Shri R.K.Jain

...Appellant

Vs.

CPIO, CESTAT

...Respondent

Date of decision: 20.7.2016

ORDER 115/2016

Pursuant to Point No. A & B, the Deputy Registrar (Admn.) vide his communication dated 11.05.2016 has confirmed that the information are not available for the period as on 01.01.2001 and 01.01.2010. However, he confirmed that the sanctioned strength and vacancies as on 01.01.2011 to 01.04.2016 are available, which have already been provided to the CPIO for onward submission to the appellant. I find that the information have already been furnished by the CPIO to the appellant under the cover of his letter dated 16.05.2016.

2. With regard to Point No. C, the appellant is satisfied with the information received from CPIO.

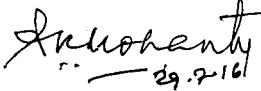
3. With regard to Point No. D, the CPIO submits that whatever information are available can be furnished to the appellant. Thus, I direct the CPIO to furnish the available information to the appellant within 4 weeks from the date of receipt of this order.

4. With regard to Point No. E, the DR(Admn.) submits before this forum that he requires at least two more months time to compile the records and to furnish the information to the appellant, because the relevant papers are scattered in various files. The prayer of DR (Admn.) is considered and time is extended till third week of September to furnish the information to the appellant.



5. With regard to Point No. G & H, the submission of CPIO is that the available data can be furnished in a fresh CD within 15 days as and when the same are required by the appellant. Thus, the appellant is directed to inform the CPIO in writing as to when the information are required, and thereafter, the CPIO shall provide the information to the appellant.

6. The appeal is disposed of in above terms.


29.2.16
(S.K. MOHANTY)
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/10-102(A)/CESTAT/FAA-SKM/2015.
2. CPIO, CESTAT, New Delhi.
3. Office Copy

Neha