

1585/CR-16
7/6/16

SHRI S.K. MOHANTY

11-68(A)/2015

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

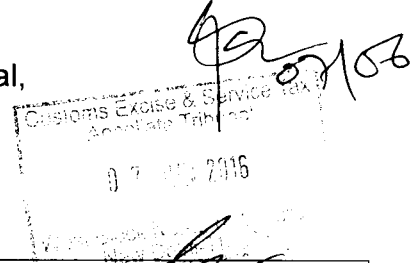
234/Sec 16-72/16
9/6/16

Ref. No. : RTI/P-537/(9903/16)/Appeal/16352

Dated : 06-06-2016

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	Shri V.P.Pandey, CPIO & Asst. Registrar
		(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	Deemed Refusal	
4.	Prayer or relief sought	See Prayer clause at the end	
5.	Last date for filing the appeal	25-6-2016	
6.	If appeal is being filed after 30 days, the reasons which prevented from filing appeal in time	Appeal in time	
7.	Copies of documents relied upon by the applicant	1. Copy of RTI application dated 25-4-2016.(Annexure-1) 2. Copy of CPIO's letter dated 29-4-2016.(Annexure-2) 3. Copy of Appellant's reminder letter to AR(SM) (Annexure-3) 4. Copy of Appellant's reminder letter to DR(J/Customs/ST/AD) (Annexure-4)	

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 the copies of the following orders passed by CESTAT, New Delhi.*

(i) *Order No.538-545/2007-EX, dated 31-10-2007 (UOI v. Hindustan Zinc Ltd.)*

(ii) *Order No.1749/2007-SM, dated 04-12-2007 (CCE, Jaipur v. Azad Body Builders Pvt. Ltd.)*

(iii) *S.Order No.466/2008-ST, dated 21-11-2008 (Banny Agencies v. CCE)*

(iv) *S.Order No.798/2010-EX, dated 25-10-2010 (Munjhal Plywood Industries Pvt. Ltd. v. CESTAT)*

(v) *Order No.370-371/2011-EX, dated 08-04-2011 (J.K. Cement Works v. CCE, Jaipur)*

(vi) *Order No.11/2012-SM, dated 02-01-2012 (Agarwal Colour Advanced Photo System v. CESTAT, New Delhi)*

(vii) *Order No.28-29/2012-EX, dated 17-01-2012 (CCE, Jaipur v. J.K. Cement Works)*

(viii) *S.Order No.57191/2013-EX, dated 19-03-2013 (Friends Auto Industries v. CESTAT, New Delhi)*

(ix) *Order No.57653/2013-CUS, dated 10-09-2013 (PEE GEE International v. CC, New Delhi)*

(x) *Order No.946/2005-NB (A) & CMWP No.1362/2005, dated 16-11-2005 & 07-10-2005 (Mukesh Kumar Gupta v. CC & CE & Anr.)*

(xi) *M.Order No.209-211/2006-NB (A), dated 8-9-2006 (Modern Time Industries & Ors. v. CC, Mumbai)*

(xii) *S.Order No.665/2012-Ex, dated 17-4-2012 (Haryana Steel & Alloys Ltd. v. CCE, Rohtak)*

- (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 the appellant received letter dated 29-4-2016 (**Annexure-2**) of Shri V.P.Pandey, CPIO, CESTAT to AR(SM) & DR(J), Customs, ST& AD. The Appellant vide letters dated 7-5-2016 (**Annexure-3 & 4**) requested the said authority to provide the desired information within the period of 30 days as stipulated under Section 7(1) of the RTI Act, 2005. The Appellant has neither received any information nor any response from the said authority therefore, as per Section 7(2) of the RTI Act, 2005, the request for information shall be deemed to have been refused. Thus being aggrieved by such refusal, this Appeal.

GROUND OF APPEAL

- (1) That the action of the learned CPIO and the deemed CPIO in not providing the information to the appellant is illegal and contrary to the provisions and spirit of the RTI Act, 2005.
- (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 and therefore, there was no valid cause or reason or ground for not providing the information.
- (3) That the inaction of CPIO & Deemed CPIOs is in violation of Sections 7(1) and 7(2) of the RTI Act, 2005 and is therefore, illegal. Such inaction is deemed to be a refusal to the request of the appellant without any reasonable cause or ground hence is illegal.
- (4) That the information sought is neither voluminous nor relate to older and larger period, thus could have easily been provided by the learned CPIO.
- (5) That the appellant is citizen of India and fulfilled all other requirements of the RTI Act and the Rules made thereunder and is entitled to the information in question.
- (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) 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.
- (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 CPIO/Deemed CPIOs may be directed to provide the information in question within a time bound frame.
- (c) That any other relief as the Appellate Authority deem fit and proper may also be ordered in favour of the appellant.
- (d) 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 : 06-06-2016

RECEIVED 01/26/16/16

**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: 23.09.2016

Appeal No.11-68 (A)/CESTAT/FAA/VP/2016

Appeal No.11-71 (A)/CESTAT/FAA/VP/2016

CPIO, I.D. No. 11-78/CESTAT/CPIO-VPP/2016

Sh. R.K.Jain

Appellant

Vs.

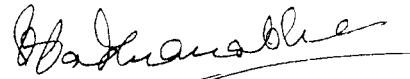
Sh. V.P. Pandey, Asst. Registrar/CPIO

Respondent

ORDER *143/2016*

The appellant reiterated his request made in the application dated 25/4/16. He also submitted that these orders are not available in the CESTAT website. CPIO pointed out it is easier to trace out the orders if the appeals numbers are available. However, the appellant expressed inability to make them available. Hence, it is decided that efforts will be made to make as many orders as possible. This may be complied with within a period of six weeks from the receipt of the order.

2. The appeal is disposed of in above terms.



(V. Padmanabhan)
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