

1668/CP-16  
20/6/16  
2391/STC/RTI/16  
28/6/16

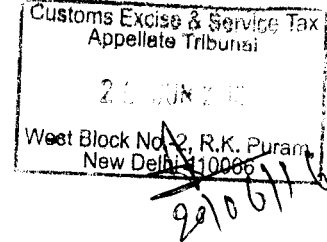
11-69(A)/2016 ID. 11-89/16

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

Ref. No. : RTI/P-537/(9927/16)/Appeal/16371  
Dated : 18-06-2016

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 & Assistant 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)	09-05-2016	
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	09-07-2016	
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 9-5-2016. <b>(Annexure-1)</b>	

### BRIEF FACTS OF THE CASE

(1) That the appellant has filed an application dated 09-05-2016 (**Annexure – 1**) under Section 6 of the RTI Act, 2005 requesting for the following information:

(A) *As per sub para 3 of CESTAT Order No. 4 of 2009 dated 17-7-2009 (copy enclosed), if an order is not delivered and pronounced within two months from date of conclusion of arguments, it can be delivered / pronounced within next two months subject to prior consent in writing, is obtained from the Hon'ble President, CESTAT, after placing before him the reasons for such delay. Further, as per sub para 4, if an order is not delivered / pronounced within six months of conclusion of hearing, such matter shall be deemed to be "not heard" and will be listed for fresh hearing after obtaining prior order in writing by Hon'ble President, CESTAT. Sub para 5 provides that procedure of Order No. 4 to 2009 shall mutatis mutandis also to cases where gist of the decision is pronounced on conclusion of hearing and reserve order to be issued subsequently. Further sub para 9 cast an obligation on Registrar / Dy. Registrar / Assistant Registrar to bring "every non compliance of above stated procedure" to notice of the President, CESTAT, and any failure shall be treated as a serious misconduct. In this regard, please provide following information in relation to CESTAT Benches at New Delhi*

(i) *Please provide details of cases in which orders have not been delivered / pronounced within two months of conclusion of hearing and written permission of the President, CESTAT, has been sought. This information may be provided for hearings concluded on or after 1-7-2014. Please also provide copy of order of President, CESTAT and note of Registrar / Dy. Registrar / Assistant Registrar, in respect to each such case. This information may also be provided in relation to cases where gist of orders was pronounced on conclusion of hearing but decision was to be delivered / pronounced subsequently.*

- (ii) *Please provide details of cases in which orders have not been delivered / pronounced within two months of conclusion of hearing and no written permission of the President, CESTAT, has been sought. This information may be provided for hearings concluded on or after 1-7-2014. Please also provide details of name of person responsible for not bringing such non-compliance to the notice of Hon'ble President, CESTAT. This information may also be provided in relation to cases where gist of orders was pronounced on conclusion of hearing but decision was to be delivered / pronounced subsequently.*
- (iii) *Please provide details of cases in which orders have not been delivered / pronounced within six months of conclusion of hearing and written permission of the President, CESTAT, has been sought. This information may be provided for hearings concluded on or after 1-7-2014. Please also provide copy of order of the President, CESTAT and note of Registrar / Dy. Registrar / Assistant Registrar, in respect to each such case. This information may also be provided in relation to cases where gist of orders was pronounced on conclusion of hearing but decision was to be delivered / pronounced subsequently.*
- (iv) *Please provide details of cases in which orders have not been delivered / pronounced within six months of conclusion of hearing and no written permission of the President, CESTAT, has been sought. This information may be provided for hearings concluded on or after 1-7-2014. Please also provide details of name of person responsible for not bringing such non-compliance to notice of Hon'ble President, CESTAT. This information may also be provided in relation to cases where gist of orders was pronounced on conclusion of hearing but decision was to be delivered / pronounced subsequently.*
- (B) *Please provide details of cases of non-compliance of Order No. 4 of 2009, which has been brought to notice of President, CESTAT, from 1-1-2013 till date, by Registrar, CESTAT and Dy. Registrar / Assistant Registrar. Please provide relevant file numbers in which such matter*

*is dealt with and action taken in the matter. Please also provide copies of relevant documents and notesheets.*

*(C) Please provide information whether even a single case of non-compliance of Order No. 4 of 2009 has been brought to notice of Hon'ble President, CESTAT, by Registrar or any of Dy. Registrar / Assistant Registrar, posted at New Delhi or at other Regional Benches. If yes, please provide details about same with relevant file number. Please also provide copies of relevant documents and notesheets.*

*(D) Please provide details of orders which are pending for delivery / pronouncement with each of the Members posted at Delhi as on 1-4-2016 or any date of May, 2016, as is convenient to you.*

**NOTE: (1) The above information is also held by the Registrar, CESTAT, Dy. Registrar / Assistant Registrar (Customs & Service Tax Bench), Assistant Registrar (Central Excise Bench) and Assistant Registrars (Single Member Bench) as well as by the Office of the Hon'ble Members, therefore, this application may also be forwarded to them or otherwise Appealable Order may be passed in this issue.**

**(2) Please do not deny information on any technical ground or on the ground of non maintainability or non availability of information, as such information has earlier been provided to me and others.**

**(3) The applicant has learnt that there are large numbers of cases where the orders had not been delivered / pronounced within two months / four months / six months and in some cases, they have been pronounced in violation of the Order No. 4 of 2009. Therefore, there is a larger public interest in disclosure of this information.**

**(4) The above information may also be provided for retired / transferred Members**

**(5) 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 the appellant has not received the information as sought by him in the aforesaid RTI Application, within the period of 30 days as stipulated under Section 7(1) of the RTI Act, 2005, therefore, as per Section 7(2) of the RTI Act, 2005, the request for information is deemed to have been refused. Thus being aggrieved by said refusal, the appellant is filing the present 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 Shri V.P. Pandey, CPIO & Assistant Registrar 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 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 : 18-06-2016

Received by  
03/08/16

**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: 20.07.2016**

**Appeal No.11-69 (A)/CESTAT/FAA/SKM/2016**

**CPIO, I.D. No. 11-89/CESTAT/CPIO-VP/2016**

Sh. R.K.Jain

Appellant

Vs.

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

Respondent

**ORDER 22/2016**

For non-submission of information sought for by the appellant in his RTI application dated 09/5/2016, this appeal has been preferred before this forum. The information in this case relates to passing/communication of the judicial orders in terms of CESTAT Order No. 4/2009 dated 17/07/2009, as amended.

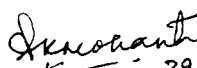
2. Pursuant to the appeal, the CPIO vide his written submission dated 14/07/2016 has stated that the information available with the office of the Registrar can be inspected by the appellant with two days prior intimation and thereafter may take the copies of the required records/documents from the concerned section of the Registrar.

3. In response to the written submission of CPIO, the appellant has filed its reply, wherein he has denied that the information have not been provided as sought for by the appellant. Further, he stated that the CPIO/Deemed CPIO has wrongly claimed that the information, in question, have not been maintained in the office of CESTAT.

SKM

4. I find that the CPIO in his written submission has not denied furnishing of the information to the appellant. However, he has stated that upon inspection of records by the appellant, the particular information required can be furnished, on receipt of written request from the appellant. In view of the above, the appellant is directed to inspect the record available with the office of the Registrar with prior intimation and thereafter the particulars of the required documents/ records may be intimated to the concerned official, who shall within the reasonable time provide the copies of desired document to the appellant.

5. The appeal is disposed of in the above terms.

  
29-07-16  
(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