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11-70 (A) / 2016

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

Ref. No. : RTI/P-537/(9917/16)/Appeal/16372

Dated : 25-06-2016

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

Customs Excise & Service Tax
Appellate Tribunal
29 JUN 2016
West Block No.-2, R.K. Puram
New Delhi - 110066
29/06/16

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)	06-05-2016	
3.	Details of the order appealed against	Letter ID No. 11-84/2016 dated 11-5-2016 read with Appellant letter dated 14-5-2016	
4.	Prayer or relief sought	See Prayer clause at the end	
5.	Last date for filing the appeal	CPIO sought clarification about the information sought which has been provided hence time limit inapplicable	
6.	Whether Appeal in Time.	Yes	
7.	Copies of documents relied upon by the applicant	1. Copy of RTI Application dated 6-5-2016. (Annexure-1) 2. Copy of CPIO letter dated 11-5-2016. (Annexure-2) 3. Copy of Appellant letter dated 14-5-2016. (Annexure-3)	

BRIEF FACTS OF THE CASE

- (1) That the appellant has filed an application dated 06-05-2016 (**Annexure – 1**) under Section 6 of the RTI Act, 2005 requesting for the following information:
- (A) *Please provide diary number and date under which following letters / representations have been received in the CESTAT and datewise details of the action taken*
- (i) *Letter No. L79522 dated 1-4-2016 of Centax Publications Pvt. Ltd.*
 - (ii) *Letter dated 9-3-2016 of Shri R.K.Jain, regarding non-uploading of all orders on CESTAT website*
 - (iii) *Letter No.L78978 dated 19-2-2016 of Centax Publications Pvt.Ltd.*
 - (iv) *Letter No.L75613 dated 9-5-2015 of Centax Publications Pvt.Ltd.*
 - (v) *Letter No.L75526 dated 2-5-2015 of Centax Publications Pvt.Ltd.*
 - (vi) *Letter No.R13292 dated 28-11-2014 of Shri R.K.Jain*
 - (vii) *Letter dated 5-8-2014 of Shri R.K.Jain regarding need for improving working of the Registry at CESTAT, Chennai*
 - (viii) *Letter No.R11289 dated 16-6-2014 of Shri R.K.Jain*
 - (ix) *Letter dated 3-6-2014 of Shri R.K.Jain regarding delay in issue of causelist and supplementary cause list*
 - (x) *Letter dated 2-6-2014 of Shri R.K.Jain regarding withholding of details of cases listed before Larger bench for 12th & 13th June 2014.*
- (B) *Please provide the date and diary number under which the aforesaid letters / representations have been received in the Office of the Registrar, CESTAT.*
- (C) *Please provide the file number in which each of the aforesaid letters / representations have been dealt with and provide the copies of the notesheets of the said file and inspection of the correspondence portion.*
- (D) *Please provide the name and designation of the Officers to whom the aforesaid letters / representations have marked for action. Please*

also provide datewise details of the action taken thereon and also provide the details of the current status

(E) Please provide a certified copy of the first page of the aforesaid letters / representations with all markings and endorsements thereon.

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 & Assistant Registrar has 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) by his letter dated 11-5-2016 (**Annexure-2**), deliberately and malafidely and with a view to delay and deny the information sought details of the appellant's letters for which information was sought whereas the appellant had duly given the letter No. and date and wherever the letter No. was not given, the subject of the letter was duly indicated like for point A(ii), (vii), (ix) & (x) of the RTI Application. Despite the complete and sufficient details of the information sought having already provided in the RTI Application, the

CPIO still asked for details. 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

- (4) That the malafide intent and conduct of Shri V.P. Pandey, CPIO and Assistant Registrar (Excise) in issuing the letter dated 11-5-2016 is further reflected on the fact that despite appellant by his letter No.R18815 dated 14-5-2016 (**Annexure-3**) forwarded the copies of the 1st page of all the letters for which information has been sought in the RTI Application to the CPIO and the said letter was delivered by hand on 16-5-2016, the CPIO has so far neither provided the information nor responded to the same. As per the information of the appellant, the CPIO is gaining time by keeping silent so as to facilitate fabrication of records as no proper action seems to have been taken on earlier communication of 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 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 Shri V.P. Pandey, CPIO and Assistant Registrar (Excise) is issuing antedated letters to the various officials of the CESTAT to cover up his lapses and facilitation of the fabrication of records while the F.A.A. has already directed the CPIO CESTAT to endorse the copy of every letter to the RTI applicant in relation to whose RTI Application, he is forwarding/transferring the RTI Application or seeking assistance of other officials. The appellant has received no such copies particularly in the cases where he apprehend fabrication/tampering with of the records by the CESTAT officials. 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

- (6) 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.
- (7) That the information sought is neither voluminous nor relate to older and larger period, thus could have easily been provided by the learned CPIO.
- (8) 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.
- (9) That a personal hearing may be granted to the appellant before deciding the present appeal.
- (10) 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 : 25-06-2016

FIRST APPELLATE AUTHORITY UNDER RTI Act
Customs, Excise & Service Tax Appellate Tribunal,
West Block No.2, R.K.Puram, New Delhi -110066

Received
21-11-2016

Date of hearing: 18.11.2016

Appeal No.11-70(A)/2016

CPIO ID No.11-84/2016

In the matter of

Shri R.K. Jain

Appellant

Vs.

CPIO, CESTAT Delhi

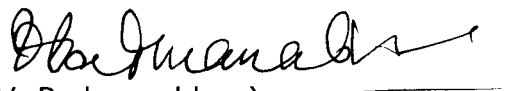
Respondent

Order No. *147/16*

Per V. Padmanabhan:

Shri R.K. Jain, applicant submits that he has sought information regarding action taken on the basis of several of the letters sent by him to CESTAT. His submission is that action taken is not coming out to the reply given in respect of some points. He also points out several other points where he will send deficiency note.

2. Deficiency may be complied with within a period of six weeks from the date of receipt of this order.


(V. Padmanabhan)
First Appellate Authority

To

Shri V.P. Pandey, CPIO, CESTAT, New Delhi

Copy to:

Shri R.K. Jain,, 1512-B, Bhisnm Pitamah Marg, Wazir Nagar, New Delhi -110003.