

11-72(A)/2016

1744/CR-16  
29/6/16

2016/11/11/11  
20/6/16

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

Ref. No. :RTI/P-537/(9926/16)/Appeal/16373

Dated : 28-06-2016

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

28/6/16

39/10

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)	09-05-2016	
3.	Details of the order appealed against	Letter ID No. 11-87/2016 dated 7-6-2016	
4.	Prayer or relief sought	See Prayer clause at the end	
5.	Last date for filing the appeal	7-7-2016	
6.	Whether 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> 2. Copy of CPIO letter dated 12-5-2016. <b>(Annexure-2)</b> 3. Copy of CPIO letter dated 7-6-2016. <b>(Annexure-3)</b> 4. Copy of CIC decision dated 7-8-2012 in the case of Brig. Davinder Singh Grewal v. Police Deptt. <b>(Annexure-4)</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) *The applicant has learnt that Mrs. Archana Wadhwa has appeared for interview on 20-12-2015 at Hyderabad for appointment as Member (Judicial) to the National Company Law Appellate Tribunal. In this respect, please provide following information:*
- (i) *Date and diary under which application for the aforesaid post was received from Mrs. Archana Wadhwa for forwarding same to concerned authorities. Please provide copies of relevant dak receipt register / diary.*
- (ii) *Please provide the mode by which application from Mrs. Archana Wadhwa for forwarding to concerned authority was received. Please also provide a copy of said application and directions / orders issued thereon by the President, CESTAT.*
- (iii) *Please provide date and diary under which application of Mrs. Archana Wadhwa has been forwarded to concerned authorities and provide copies of relevant despatch records / diaries*
- (iv) *The file numbers in which aforesaid application of Mrs. Archana Wadhwa has been dealt with. Please also provide certified copies of all notesheets and correspondence pages of said files.*
- (v) *Please provide details as to permission sought and granted to Mrs. Archana Wadhwa for appearing before the Selection Committee at Hyderabad on 20-12-2015.*
- (B) *Please provide details of applications received from the Members of the CESTAT, for forwarding to concerned authorities for appointment in other organisations. This information may be provided from 1-1-2012 till date of providing the information and with details of name of concerned Member and post applied for and action taken in the*

*matter. Please also intimate file number in which this matter is dealt with.*

- (C) *Please provide file numbers in which matter concerning the tours and travels of CESTAT Members and staff for period 1-1-2015 till date of providing the information is dealt with including for Members' Conference at Mumbai. Please also intimate numbers of notesheets and numbers of correspondence pages contained in each of said files. After providing this information, please also provide inspection of said records.*
- (D) *Please provide file numbers in which matter concerning the booking of air tickets for tours and travels of CESTAT Members and staff for period 1-1-2015 till date of providing the information is dealt with including for Members' Conference at Mumbai. Please also intimate numbers of notesheets and numbers of correspondence pages contained in each of said files. After providing this information, please also provide inspection of said records.*
- (E) *Please provide file numbers in which matter concerning the expenditure incurred in tours and travels of CESTAT Members and staff for period 1-1-2015 till date of providing the information is dealt with including for Members' Conference at Mumbai. Please also intimate numbers of notesheets and numbers of correspondence pages contained in each of said files. After providing this information, please also provide inspection of said records.*

**NOTE (1) : The information sought in Point (A) & (B) above is also held by the Registrar, CESTAT, therefore, these points may be transferred / forwarded to him.**

**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 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) has deliberately and malafidely not provided point wise information to the RTI Application with a view to suppress and withheld the information. As per various Delhi High Court and CIC decisions, when point wise information is sought, the CPIO is duty bound to provide point wise response. 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 Shri V.P. Pandey, CPIO and Assistant Registrar (Excise) and the Deemed CPIOs deliberately and malafidely not provided the certified copies of the documents as sought in RTI Application rather offered inspection of the records. The CIC in the case of Brig. Davinder Singh Grewal v. Police Deptt. (**Annexure-4**) by order dated 7-8-2012 has 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. In view of the CIC decision, the offer for

inspection is malafide and with a view to cause obstruction to the information. 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 mere inspection of certain records by the appellant so as to cooperate the authorities is not a sufficient compliance to the provisions of the RTI Act as the CPIO and Deemed CPIOs has not certified that all records have been offered for inspection and they were complete in all respect. 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 : 28-06-2016

Received on 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.11-72 (A)/CESTAT/FAA/SKM/2016**

**CPIO, I.D. No. 11-87/CESTAT/CPIO-VP/2016**

Sh. R.K.Jain

Appellant

Vs.

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

Respondent

**ORDER 25/2016**

Pursuant to the appeal filed by the appellant, the CPIO vide his written submission dated 14/07/2016 has stated that with regard to point No. 'D' and 'E', the information received from the caretaking Section and Account Section have already been provided to the appellant. With regard to the other points, he had referred the matter to the Administration Section for providing the requisite information.

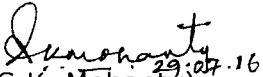
2. In response to the written submission of CPIO, the appellant has filed the reply stating that the CPIO has so far not provided the information as sought for in point 'A' to 'C' of the RTI application. Further, he has stated that with regard to point 'D' the complete information have not been provided by the CPIO.

3. On 20/07/2016, the appellant has not attended the hearing fixed before the First Appellate Authority and in his letter dated 19/07/2016, he has acknowledged receipt of the written submission of CPIO. I find that the submission of CPIO and the reply of the appellant are contradicting each other in as much as the claim of CPIO is that he has furnished the information, to which the appellant denies having not received. Therefore, at this juncture, I cannot decide as to which documents have been provided and what are the other documents i.e.

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required by the appellant. Therefore, I direct both parties to interact each other with regard to the information and amicably settle the issue by themselves.

4. The appeal is disposed of in above terms.

  
(S.K. Mohanty)  
Appellate Authority

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