

11-89(A)/2016

35/1/02/2016  
31/11/16

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

Ref. No. :RTI/P-537/(10127/16)/Appeal/16599

Dated : 28-10-2016

Shri V.Padmanabhan  
Hon'ble 1st Appellate Authority & Member (T)  
Customs, Excise & Service Tax Appellate Tribunal,  
West Block 2, R.K.Puram,  
New Delhi - 110066

Customs Excise & Service  
Appellate Tribunal

West Block No.-2, R.K.  
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	22-08-2016	
3.	Details of the order appealed against	CPIO's letter ID No.11-128/2016 dated 19-10-2016	
4.	Prayer or relief sought	See Prayer clause at the end	
5.	Last date for filing the appeal	19-11-2016	
6.	Whether Appeal in Time.	Appeal in time	
7.	Copies of documents relied upon by the applicant	1. Copy of RTI application dated 19-8-2016. (Annexure-1) 2. Copy of CPIO's letter dated 22-8-2016. (Annexure-2) 3. Copy of Appellant's 3 letters dated 29-8-2016. (Annexure-3) 4. Copy of CPIO's letter dated 5-10-2016. (Annexure-4)	

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		5. Copy of Appellant's 2 letters dated 10-10-2016. <b>(Annexure-5)</b> 6. Copy of CPIO's letter dated 19-10-2016. <b>(Annexure-6)</b>
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### **BRIEF FACTS OF THE CASE**

- (1) That the appellant has filed an application dated 22-08-2016 (**Annexure – 1**) under Section 6 of the RTI Act, 2005 requesting for the information as specified in para 4 thereof.
- (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, CESTAT has failed to provide complete and correct information as sought by the appellant within the specified period. 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, CESTAT and the Deemed CPIO have not so far been provided the information as sought in Point (A) & (C) of 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.
- (3) That the Deemed CPIO has deliberately and malafidely denied the information as sought in Point (B) of the RTI Application, whereas he is required to maintain such record for the purposes of the public notice / CESTAT orders issued in relation to the reserved orders for their pronouncement, issue and uploading on the website.

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.

- (3) That the Deemed CPIO has deliberately and malafidely denied the information as sought in Point (B) of the RTI Application, whereas he is required to maintain such record for the purposes of the public notice / CESTAT orders issued in relation to the reserved orders for their pronouncement, issue and uploading on the website.
- (4) That the CPIO has erred in not providing the complete and correct 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.
- (5) 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.
- (6) That the CPIO and the Deemed CPIO have deliberately and malafidely obstructing the information without any reasonable cause, therefore, they are liable for penal action, but the First Appellate Authority is not empowered to take penal action under Section 20 of the RTI Act, therefore, the appellant reserves his right to make a direct complaint to the CIC.
- (7) That a personal hearing may be granted to the appellant before deciding the present appeal.
- (8) 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 : 28-10-2016

THE FIRST APPELLATE AUTHORITY, CESTAT, NEW DELHI.

DATE OF HEARING 15.12.2016

APPEAL NO. 11-89(A)/2016

CPIO ID NO. 11-128/2016

In the matter of

Sh. R.K Jain

Appellant

V/S

CPIO CESTAT, Delhi

Respondent

ORDER No. 154/2016

Heard shri RK Jain. ~~(A)~~ ~~(B)~~

Regarding (A) - (i), (ii) & (iii) may  
be provided within 4 weeks.  
Req (B) & (C) inspection will be undertaken  
by the appellant with DR.  
and copies may be taken.

15/12/16