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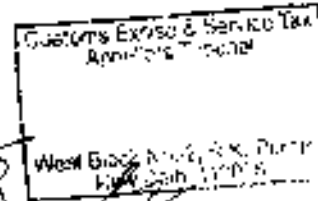
**First Appeal under Section 19 of the Right to Information Act, 2005
against Deemed Refusal**

Ref. No. : RTI/P-537/(10204/16)/Appeal/16628

Dated : 19-11-2016

CPIO
To

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



A. Contact Details :

| | |
|--------------------------|--|
| 1. Name of the Appellant | R.K. Jain |
| 2. Address | 1512-B, Bhisim 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 | (1) Shri V.P.Pandey, CPIO & Asst Registrar (2) Shri Mohinder Singh, DR (Cus & ST) & Deemed CPIO |
| | (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) | 03-10-2016 | |
| 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 | 3-12-2016 | |
| 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 3-10-2016. (Annexure-1) 2. Copy of CPIO's letter dated 5-10-2016. (Annexure-2) 3. Copy of Appellant's letter dated 10-10-2016. (Annexure-3) | |

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BRIEF FACTS OF THE CASE

- (1) That the appellant has filed an application dated 03-10-2016 (**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 the appellant received letter dated 5-10-2016 (**Annexure-2**) of Shri V.P.Pandey, CPIO to DR (Cus & ST). The Appellant vide letter dated 10-10-2016 (**Annexure-3**) 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.
- (4) The CPIO and the Deemed CPIOs are deliberately and malafidely obstructing the information without any reasonable cause therefore they are liable for penal action. The First Appellate Authority is not empowered to take action under section 20 of the RTI Act, therefore the appellant reserves his right to move direct complaint to CIC u/s 18 of the RTI Act.

GROUNDS OF APPEAL

- (1) That the action/inaction 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 inaction of CPIO & Deemed CPIO 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.
- (3) That the CPIO/Deemed CPIO is deliberately and malafidely not providing

the information with a view to delay and deny the information resulting in obstruction of the same without any reasonable cause rather with mala fide intent and purpose.

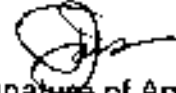
- (4) That the information sought is neither voluminous nor exempted under section 8 or 9 of the RTI Act. thus could have easily been provided by the learned CPIO.
- (5) That the appellant is citizen of India and fulfilled all other requirements of the RTI Act and the Rules made thereunder and is entitled 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) That the appellant reserves his right to file a direct complaint to the CIC as the First Appellate Authority is not empowered to take penal action under section 20 of the RTI Act.
- (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.
- (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 CPIO may be directed to provide the information in question within a time bound frame.
- (c) That penal action may be recommended against the CPIO/Deemed CPIO for causing obstruction to the 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 . 19-11-2016

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK 2, R.K. PURAM, NEW DELHI 110 066

APPELLATE AUTHORITY

Date of Hearing/Decision : 16.01.2017

Appeal No. 11-93 (A)/2016

CPIO ID No. 11-150/2016

Shri R.K. Jain ... Appellants


Vs.

Shri V.P. Pandey, Asst. Registrar ... Respondent

Coram: Hon'ble Mr. V. Padmanabhan, Member (Technical)

Order - 153/2016

With reference to information sought at "A" (i) and (ii) in respect of inspection of records, it is directed that inspection of records may be provided with copies of documents within four weeks.



(V. Padmanabhan)
Appellate Authority

Copy to :

1. Shri R.K. Jain, 1512, Bhisim Pitamah Marg
Wazir Nagar, New Delhi - 110 003
2. Shri V.P. Pandey, Assistant Registrar/ CPIO, CESTAT, New Delhi
3. Office Copy.