

4014/CR/2016
28/11/2016

11-94(A)/16

CPIO

Recd. of
29/11/16

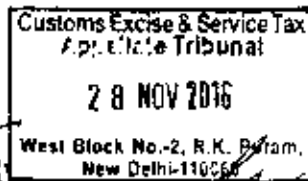
**First Appeal under Section 19 of the Right to Information Act, 2005
against Deemed Refusal**

Ref. No. : RTI/P-537/(10215/16)/Appeal/16632

Dated : 26-11-2016

To

Hon'ble 1st Appellate Authority
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	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 (Copy of application attached)	12-10-2016	
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	12-12-2016	
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 12-10-2016 (Annexure -1) 2. Copy of CPIO's Letter dated 18-09-2016 (Annexure-2)	

	<p>3. Copy of Appellant's Letter dated 29-10-2016 to DR (Customs Branch) (Annexure-3)</p> <p>4. Copy of Appellant's Letter dated 29-10-2016 to AR (Excise) (Annexure-4)</p> <p>5. Copy of Appellant's Letter dated 29-10-2016 to AR(SM) (Annexure-5)</p>
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BRIEF FACTS OF THE CASE

- (1) That the appellant has filed an application dated 12-10-2016 (**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 18-09-2016 (**Annexure-2**) of CESTAT to DR (Customs), AR (Excise) and AR(SM) The Appellant vide letter dated 29-10-2016 (**Annexure-3 to 5**) requested the said authorities 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 authorities 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.

GROUND OF APPEAL

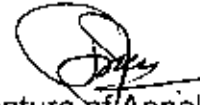
- (1) That the action/inaction of the learned CPIO and the deemed CPIO in not providing the information to the appellant is illegal and contrary to the provisions and spirit of the RTI Act, 2005.
- (2) That the inaction of CPIO and deemed CPIOs is in violation of Sections 7(1) and 7(2) of the RTI Act, 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 malafide 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 : 26-11-2016

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. 11-94 (A)/2016

CPIO ID No. 11-157/2016

Shri R.K. Jain ... Appellants

Vs.

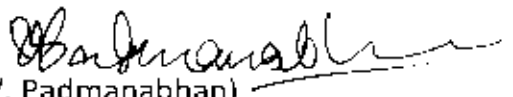
Shri V.P. Pandey, Asst. Registrar ... Respondent

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

Order - 154/2016

Shri R.K. Jain brought to notice that the RTI requested was filed on 14.10.2016. Further, since no reply was received up to 26.11.2016, the present appeal has been filed on the basis of deemed refusal. He further submitted that the information was only with reference to point 'D' has been provided and in respect of other points, information has not been provided.

2. The information sought, if available and maintained may be provide immediately, in any case within a period of six weeks.


(V. Padmanabhan)
Appellate Authority

Copy to :

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