

4256/CR/2016.  
15/12/2016.

11-97(A)/2016

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

Ref. No. :RTI/P-537/(10155/16)/Appeal/16642

Dated : 13-12-2016

44/VP/2016  
19/12/16 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

By hand  
15/12/2016

**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 Assistant Registrar/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)	05-09-2016	
3.	Details of the order appealed against	ID No.11-158/16 dated 11-11-2016 received on 16-11-2016	
4.	Prayer or relief sought	See Prayer clause at the end	
5.	Last date for filing the appeal	16-12-2016	
6.	Whether Appeal in Time.	Appeal in time	
7.	Copies of documents relied upon by the applicant	1. Copy of RTI application dated 5-9-2016. (Annexure-1) 2. Copy of CPIO's letter dated 11-11-2016. (Annexure-2)	

S.D.S. to v. Padmanabhan  
15/12/16

CPIO

16/12/16

### **BRIEF FACTS OF THE CASE**

- (1) That the appellant has filed an application dated 05-09-2016 (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 & Asst. Registrar 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.
- (4) The CPIO is 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 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 CPIO has deliberately and malafidely not provided the complete and correct information in relation to point A (vi) and A (x) 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 CPIO has deliberately and malafidely provided wrong information that the Appeal No. E/1904/2011 has been transferred to CESTAT,

Chandigarh and was listed on 2-12-2015 at Chandigarh whereas the said appeal was listed on 2-12-2015 at CESTAT, Delhi. 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 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 a personal hearing may be granted to the appellant before deciding the present appeal.
- (7) 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 any other relief as the Appellate Authority deem fit and proper may also be ordered in favour of the appellant.
- (d) 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 : 13-12-2016

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. 11-97 (A)/2016

CPIO ID No. 11-158/2016

Shri R.K. Jain

... Appellants

Vs.

Shri V.P. Pandey, Asst. Registrar

... Respondent

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

Order — 158/2016

Shri R.K. Jain submitted that he is pressing for information for the point "A (vi)" in respect of the appeal No. E/2772/2005 as well as information sought at point (x) in respect of the appeal No. E/2772/2005 and E/1904/2011.

2. The information sought may be provided for if available at Delhi, if not, then the request may be transferred to the concerned bench/ CPIO where the information is available. Ordered accordingly.

  
(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.