

12.04.2017

506/CR/2017

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

Ref. No. : RTI/P-537/(10264/16)/Appeal/16672  
Dated : 04-02-2017

06/02/2017 CPIO

To

1<sup>st</sup> Appellate Authority under RTI  
Customs, Excise & Service Tax Appellate Tribunal,  
West Block 2, R.K.Puram,  
New Delhi - 110066

57/VP/17  
13/2/17

06 FEB 2017  
06/02/2017

**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 (Copy of application attached)	22-12-2016
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	22-2-2017
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 22-12-2016. (Annexure-1) 2. Copy of CPIO's letter dated 23-12-2016. (Annexure-2) 3. Copy of Appellant's letter dated 29-12-2016. (Annexure-3)

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

- (1) That the appellant has filed an application dated 22-12 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 has not received the information as sought by him in the aforesaid RTI Application, within the period of 30 days as stipulated under Section 7(1) of the RTI Act, 2005, therefore, as per Section 7(2) of the RTI Act, 2005, the request for the said information is deemed to have been refused. Thus being aggrieved by said refusal, the appellant is filing the present 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 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 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 04-02-2017

Application under Section 6 of the Right to Information Act, 2005

(5)

Ref. No. : RTI/P-195/10264/16

Dated : 22-12-16

To

Shri V.P.Pandey  
CPIO & Asst. Registrar  
Customs Excise & Service Tax Appellate Tribunal,  
West Block 2, R.K.Puram,  
New Delhi - 110066

22 DEC 2016

1.	Name of the Applicant	R. K. Jan
2.	Address	1512-B, Bhishm Pitamah Marg Wazir Nagar New Delhi-110003
	(b) Phone Nos.	09810077977, 011-24651101, 011-24690707
	(c) Fax No.	011-24635243
3.	Whether a Citizen of India	Yes
4.	Particulars of Information	
	Details of information required	<p>(A) On 17-11-2016, the Court No. 4 presided over by Hon'ble Mrs. Archana Wadhwa - Member (Judicial) assembled at 10:57 am. At the start of the day's proceedings, Shri Govind Dixit, Authorised Representative made a mention that on number of day in the previous week, the said Court has started assembled at 11:00 am and has been taking a tea break of 30-40 minutes. He submitted whether the court timings have been changed, since as per Rule 43 of the CESTAT Procedure Rules, the sitting time for the Tribunal is 10:30 am to 1:30 pm and 2:15 pm to 4:45 pm. The Presiding Member Mrs. Archana Wadhwa observed that she is not bound by the CESTAT Procedure Rules, as she is deciding 100 cases per day while other Members sitting whole day merely decide 4-5 cases per day. She also observed that she is not happy with the conduct of Mr. Govind Dixit, therefore, debarred him from representing revenue cases in her Court. She also stated that an order in this respect will be passed by her. In this respect, please provide the following information:</p> <p>(i) Please provide copy of the order passed by Mrs. Archana Wadhwa - Member (J) debarring Shri Govind Dixit from appearing in her Court, as stated during hearing on 17-11-2016.</p> <p>(ii) Please provide copy of any report / note submitted by Mrs. Archana Wadhwa in relation to the above matter. Please also</p>

*[Handwritten signature]*  
22/12/2016

intimate the date and diary under which the said report has been sent to and received by the competent authority, with copies of the notesheets and correspondence pages of the said file.

(iii) Please provide information that on the face of the timings prescribed under Rule 43 of the CESTAT Procedure Rules whether a Member can take routine tea break of 30-40 minutes during court hours, if yes, please provide copy of the relevant orders / circular / instruction issued by the Competent Authority.

(iv) Please provide copy of any circular / order by which Mrs. Archana Wadhwa has been given relaxation / exemption from following / complying with the CESTAT Procedure Rules.

(v) Please provide details of the Rules, Regulations, Orders or any statutory provisions which empowers the CESTAT Member from debarring an Authorised Representative to appear in his / her Court, particularly on the face of Rule 13 of the Central Excise Appeal Rules, 2001 read with Section 35(2)(5)(b) of the Central Excise Act.

(B) Please provide the file number in which the aforesaid matter is dealt with

**Note: (1) The aforesaid information is also held by Hon'ble Mrs. Archana Wadhwa - Member (J), therefore, this application may also be transferred and forwarded to her.**

**(2) Please provide pointwise information/ response for each of above points.**

5. I state that the information sought is covered under RTI Act and does not fall within the exemptions contained in sections 8 or 9 or any other provisions of the Right to Information Act, 2005 and to the best of my knowledge it pertains to your office. Information is being sought in larger public interest.

6. A Postal Order No. 38F 037929 for Rs. 10 towards payment of fee is enclosed herewith.

7. As per Section 7 of the RTI Act, 2005 information is to be provided within 30 days of the Application.



Signature of Applicant  
Telephone No. : 9810077977  
011-24651101, 24690707  
Fax No. 011-24635243

Place : New Delhi  
Encl. : as above

5

**F. No. 11-175 / CESTAT/CPIO-ND/VPP/2016**  
**Customs Excise and Service Tax Appellate Tribunal**  
**West Block No 2, R.K. Puram, New Delhi-110 066**

**Dated:** 23-12-16

**ID No.** 11-175/16

Subject: Information sought under RTI Act, 2005.


Sir/Madam,

Please refer to RTI application No 10264/16 dated 22-12-16 of Shri /Smt. **R.K. Jain** under RTI Act 2005 (copy enclosed) wherein certain information are sought as mentioned therein is related to your section.

Therefore, in terms of the provisions of Section 5(1) read with Section 5(3) of RTI Act 2005 the RTI application No. 10264/16 dated 22-12-16 CPIO ID No. 11-175/16 is forwarded herewith to the you as deemed CPIO with the request to provide the correct and pain wise information/inspection on or before \_\_\_\_\_ directly to the applicant and intimate the undersigned within the stipulated time failing which, you will be responsible for delay and penalty if any, under section 20 of RTI Act. You are, further requested to follow O.M. No.12/31/2013-IR dated:13.02.2013 circulated on 23.05.2013

Note: RTI applications replies which are related to other benches may be gathered form there by filing RTI applications there directly. for facilitation, CPIOs are nominated at all other benches separately.

Encl. As above

  
V.P. Pradeep

Central Public Information Officer

Copy to:

1. DR (CUSTOMS)
2. \_\_\_\_\_
3. \_\_\_\_\_
4. Computer Section for uploading on website
5. Shri R.K. Jain  
1512-B, Binsim Pitamah Marg,  
Wazir Nagar, New Delhi-110003

v-21328



**R.K. JAIN** *Advocate, LL.B.*

President, Excise and Customs Bar Association

*Editor of*

**EXCISE LAW TIMES & SERVICE TAX REVIEW**

*and author of*

Central Excise Law Guide, Central Excise Tariff of India,  
 Central Excise Law Manual, Customs Tariff of India  
 Customs Law Manual, Excise & Customs Circulars  
 A. Clarifications, Excise & Customs Case References  
 Service Tax Law Guide, Service Tax Handbook,  
 Handbook of Duty Drawback on Goods &  
 Services, Valuation under Central Excise, Hand-  
 books of Foreign Trade Policy & Procedures

1512-B, Bhisim Pitamah Marg,

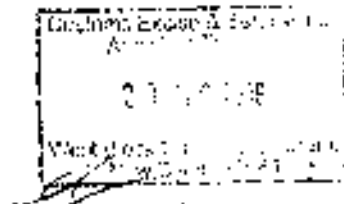
Wazir Nagar,

NEW DELHI - 110 003.

PHONE : 24693001-3004

MOBILE : 9810077977

Fax No. 011-24635243



29/12 RTI/P-195/10264/16/R21009  
 29-12-2016

DR (Customs)

Customs Excise & Service Tax Appellate Tribunal,

West Block 2,

R.K. Puram,

New Delhi - 110066

**Sub: My RTI Application No, RTI/10264/16, dated 22/12/16**

Dear Sir,

This refers to the letter ID No. 11-175/2016 dated 23-12-2016 of Shri V P Pandey, CPIO, CESTAT, New Delhi, transferring my aforesaid RTI application to you under section 6(3) and section 5(4) read with section 5(5) of the RTI Act, 2005, for providing the information to me. You are requested to kindly provide the information at the earliest as under section 7(1) of the RTI Act, information is to be provided within 30 days of the RTI Application.

Thanking you,

Yours faithfully,

[R.K. Jain]



626/CA/2017  
15/02/2017  
12.00(A)/2017

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

Ref. No. :RTI/P-537/(10264/16)/Appeal/16683

Dated 15-02-2017

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

15/02/2017  
15/02/2017  
15/02/2017

**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 (1) Shri V.P. Pandey CPIO & Assistant Registrar (2) Shri Mohinder Singh. Dy. Registrar (Customs, Service Tax and Antidumping Branch); and 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	22-12-2016
3.	Details of the order appealed against	Letter ID No. 11-175/2016 dated 3-2-2017
4.	Prayer or relief sought	See Prayer clause at the end
5.	Last date for filing the appeal	3-3-2017
6.	Whether Appeal in Time.	Appeal in time
7.	Copies of documents relied upon by the applicant	1. Copy of RTI Application dated 22-12-2016. (Annexure-1) 2. Copy of CPIO letter dated 23-12-2016. (Annexure-2) 3. Copy of CPIO letter dated 3-2-2017. (Annexure-3)

CPIO  
15/2/17

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

- (1) That the appellant has filed an application dated 22-12-2016 (**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 & Assistant Registrar and Shri Mohinder Singh, Dy Registrar (Customs, Service Tax and Antidumping Branch) and Deemed CPIO, have 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 & Assistant Registrar and Shri Mohinder Singh, Dy Registrar (Customs, Service Tax and Antidumping Branch) and Deemed CPIO have failed to provide the information as sought by the appellant
- (3) That Shri V.P. Pandey CPIO & Assistant Registrar and Shri Mohinder Singh, Dy Registrar (Customs, Service Tax and Antidumping Branch) and Deemed CPIO, have deliberately and malafidely not provided the correct information sought by the appellant nor the CPIO forwarded the RTI Application to Mrs. Archana Wadhwa or her PS despite specific request made in the RTI Application that she was the holder of the information. In order to obstruct the information, the CPIO has not sought information from other holders of the information such as the concerned Court Master. 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.

- (4) That Shri Mohinder Singh, Dy. Registrar (Customs Service Tax and Antidumping Branch) and Deemed CPIO, instead of providing specific information as sought by the appellant in Point (A)(ii) to A(v) of the RTI Application. Shri Mohinder Singh, Dy. Registrar (Customs Service Tax and Antidumping Branch) and Deemed CPIO has provided misleading information with a view to suppress the information. In case, he was not holding the information, he should have forwarded the RTI Application to the holder of the information or sought the assistance of the concerned officers. 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 Shri V.P. Pandey, CPIO and Assistant Registrar (Excise) has ignored the observation of Shri Mohinder Singh, Dy. Registrar (Customs, Service Tax and Antidumping Branch) and Deemed CPIO to consult the Registrar for providing the information sought in Point (A)(iii) to (A)(v) of the RTI Application. Shri V.P. Pandey, CPIO and Assistant Registrar (Excise) is, therefore, deliberately and malafidely obstructing 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.
- (6) That Shri V.P. Pandey, CPIO & Assistant Registrar and Shri Mohinder Singh, Dy. Registrar (Customs, Service Tax and Antidumping Branch) and Deemed CPIO have provided incorrect and misleading information for Point (B) of the RTI Application, wherein the appellant has sought the file no. in which the matter concerning barring of Shri Govind Dixit, AR, whereas the CPIO has provided misleading information that RTI Application is dealt with in the RTI 2016 Folder of the Custom Appeal


Branch 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 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.
- (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 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 : 15-02-2017

Application under Section 6 of the Right to Information Act, 2005

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Ref. No. :RTI/P-195/10264/16

Dated : 22-12-16

To

Shri V.P.Pandey  
CPIO & Asst. Registrar  
Customs Excise & Service Tax Appellate Tribunal,  
West Block 2, R.K.Puram,  
New Delhi - 110066

22 DEC 2016

1. Name of the Applicant	R.K. Jain
2. Address	1512-B, Bhisun Pitamah Marg Wazir Nagar New Delhi-110003
(b) Phone Nos.	09810077977, 011-24651101, 011-24690707
(c) Fax No.	011-24635243
3. Whether a Citizen of India	Yes
4. Particulars of Information	
Details of information required	<p>(A) On 17-11-2016, the Court No. 4 presided over by Hon'ble Mrs. Archana Wadhwa - Member (Judicial) assembled at 10:57 am. At the start of the day's proceedings, Shri Govind Dixit, Authorised Representative made a mention that on number of day in the previous week, the said Court has started assembled at 11:00 am and has been taking a tea break of 30-40 minutes. He submitted whether the court timings have been changed, since as per Rule 43 of the CESTAT Procedure Rules, the sitting time for the Tribunal is 10:30 am to 1:30 pm and 2:15 pm to 4:45 pm. The Presiding Member Mrs. Archana Wadhwa observed that she is not bound by the CESTAT Procedure Rules, as she is deciding 100 cases per day while other Members sitting whole day merely decide 4-5 cases per day. She also observed that she is not happy with the conduct of Mr. Govind Dixit, therefore, debarred him from representing revenue cases in her Court. She also stated that an order in this respect will be passed by her. In this respect, please provide the following information:</p> <p>(i) Please provide copy of the order passed by Mrs. Archana Wadhwa - Member (J) debaring Shri Govind Dixit from appearing in her Court, as stated during hearing on 17-11-2016.</p> <p>(ii) Please provide copy of any report / note submitted by Mrs. Archana Wadhwa in relation to the above matter. Please also</p>

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intimate the date and diary under which the said report has been sent to and received by the competent authority, with copies of the notesheets and correspondence pages of the said file.

- (iii) Please provide information that on the face of the findings prescribed under Rule 43 of the CESTAT Procedure Rules whether a Member can take routine tea break of 30-40 minutes during court hours. If yes, please provide copy of the relevant orders / circular / instruction issued by the Competent Authority.
- (iv) Please provide copy of any circular / order by which Mrs. Archana Wadhwa has been given relaxation / exemption from following / complying with the CESTAT Procedure Rules.
- (v) Please provide details of the Rules, Regulations, Orders or any statutory provisions which empowers the CESTAT Member from debaring an Authorised Representative to appear in his / her Court, particularly on the face of Rule 13 of the Central Excise Appeal Rules, 2001 read with Section 35(2)(5)(b) of the Central Excise Act.

(B) Please provide the file number in which the aforesaid matter is dealt with

**Note: (1) The aforesaid information is also held by Hon'ble Mrs. Archana Wadhwa - Member (J), therefore, this application may also be transferred and forwarded to her.**

**(2) Please provide pointwise information/ response for each of above points.**

- 5. I state that the information sought is covered under RTI Act and does not fall within the exemptions contained in sections 8 or 9 or any other provisions of the Right to Information Act, 2005 and to the best of my knowledge it pertains to your office. Information is being sought in larger public interest.
- 6. A Postal Order No. 38F 037929 for Rs. 10 towards payment of fee is enclosed herewith.
- 7. As per Section 7 of the RTI Act, 2005 information is to be provided **within 30 days of the Application.**

Signature of Applicant  
Telephone No. : 9810077977  
011-24651101, 24690707  
Fax No. 011-24635243

Place : New Delhi  
Encl. : as above

17/1/17

**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 : **08.03.2017**

**Appeal No. 12-04 (A)/2017, 12-06 CA/2017**

**CPIO ID No. 11-175/2016**

Shri R.K. Jain ... Appellants

Vs.

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

**Appearance**

Rep. by - Shri R.K. Jain, the appellant

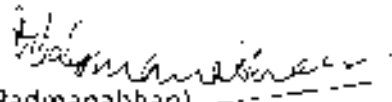
Rep. by - Shri V.P. Pandey, Asst. Registrar, CPIO for respondent.

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

Order - 05/2017

After going through the relevant records, I find that there is a reply from the deemed CPIO, DR Customs branch that no order has been received in the Customs branch regarding debaring Shri Govind Dixit from appearing in Court. Further, no report has also been received from the Hon'ble Member (Judicial) in relation to the matter concerned in RTI.

As no information is in existence on this point, in these circumstances, no further information can be provided. Appeal disposed of 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.