

625/CR/2017.
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12-05(A)/2017

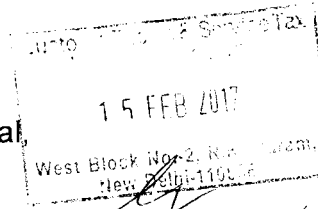
First Appeal under Section 19 of the Right to Information Act, 2005

Ref. No. :RTI/P-537/(10311/17)/Appeal/16679

Dated : 14-02-2017

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, 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 & Asst. Registrar (2) Shri A. Mohan Kumar, Registrar 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 (Copy of application attached)	12-01-2017	
3.	Details of the order appealed against	ID No.12-04/2017 dated 27-1-2017 & 6-2-2017	
4.	Prayer or relief sought	See Prayer clause at the end	
5.	Last date for filing the appeal	6-3-2017	
6.	Whether Appeal in Time.	Appeal in time	
7.	Copies of documents relied upon by the applicant	1. Copy of RTI application dated 12-1-2017. (Annexure-1) 2. Copy of CPIO's letter dated 13-1-2017. (Annexure-2) 3. Copy of Appellant's reminder letters dated 20-1-2017. (Annexure-3 & 4)	

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		4. Copy of CPIO's letter dated 27-1-2017. (Annexure-5) 5. Copy of CPIO's letter dated 6-2-2017. (Annexure-6) 6. Copy of Appellant's letter dated 8-2-2017. (Annexure-7)
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BRIEF FACTS OF THE CASE

- (1) That the appellant has filed an application dated 12-01-2017 (**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 (Excise) has denied the information on the ground that the Annexure A to C has not been found enclosed with the RTI Application whereas such annexures were duly enclosed with the RTI Application. The Registrar of the CESTAT by his order dated 3-2-2017 (**Annexure-6**) has replied to the RTI Application. This also proves that the copies of the Annexures were sent with the RTI Application. The appellant being aggrieved by the said order of the CPIO is filing the present appeal.
- (4) Shri V.P. Pandey, CPIO and Assistant Registrar (Excise) and Shri A. Mohan Kumar, Registrar and Deemed CPIO 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 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 and Assistant Registrar (Excise) has wrongly denied the information on the ground that the Annexures A to C has not been enclosed with the RTI Application whereas these Annexures were duly enclosed with the RTI Application as is evident from the reply dated 3-2-2017 (**Annexure-6**) of the Registrar. 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 Shri A. Mohan Kumar, Registrar and Deemed CPIO has deliberately and malafidely denied the information though he was holder of the information as the information sought in point (C) pertains to the communication sent by him to the Ministry of Finance. Therefore, the order of Shri A. Mohan Kumar, Registrar and Deemed CPIO is liable to be set aside with direction to provide point-wise information to the appellant within time bound frame
- (4) That Shri A. Mohan Kumar, Registrar and Deemed CPIO in order to obstruct the information, has stated that the information may be obtained from the concerned officer/section without forwarding the said application to the concerned officer or section. This also exhibits his malafide intent to delay and deny the information. Therefore, the order of Shri A. Mohan Kumar, Registrar and Deemed CPIO is liable to be set aside with direction to provide point-wise information to the appellant within time bound frame
- (5) 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.
- (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 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 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 : 14-02-2017

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. 12-05 (A)/2017

CPIO ID No. 12-04/2017

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 — 06 / 2017

Shri R.K. Jain submitted that with reference to information under RTI application dated 12.01.2017, SPS to Shri S.K. Mohanty, Hon'ble Member (Judicial), submitted that annexure 'A' 'B' & 'C' were not found enclosed with the application. Shri R.K. Jain submitted that copies of annexure and the information may be provided.

2. Shri V.P. Pandey, CPIO submitted that now annexures A, B, and C are made available to deemed CPIO and the information may be provided within four weeks.

3. Deemed CPIO directed that the information may be provided to the appellant within four weeks from the date of receipt of this order


(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.

689/CR/2017.
21/02/2017.

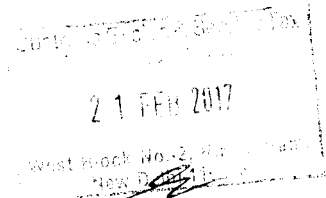
12-07(A)/17

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

Ref. No. : RTI/P-537/(10141/16)/Appeal/16686

Dated : 17-02-2017

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



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 & Asst. Registrar (2) Shri Mohinder Singh, Deemed CPIO & DR (Customs/ST/AD)
		(b) Address	Customs Excise & Service Tax Appellate Tribunal, West Block 2, R.K.Puram. New Delhi - 110066
2.	Date of submission of application	24-08-2016	
3.	Details of the order appealed against	ID No.11-130/2016 dated 7-2-2016	
4.	Prayer or relief sought	See Prayer clause at the end	
5.	Last date for filing the appeal	7-3-2016	
6.	Whether Appeal in Time.	Appeal in time	
7.	Copies of documents relied upon by the applicant	1. Copy of RTI application dated 24-8-2016. (Annexure-1) 2. Copy of CPIO's letter dated 31-8-2016. (Annexure-2) 3. Copy of Appellant's letters dated 5-9-2016 (Annexure-3 to 6) 4. Copy of CPIO's letter dated 20-9-2016.	

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CPIO
21/2/17
P.A. to Hon'ble
FAA Sh. V. Padmanabhan
M.T.
21/02/17

		<p>(Annexure-7)</p> <p>5. Copy of CPIO's letter dated 13-10-2016. (Annexure-8)</p> <p>6. Copy of Appellant's letter dated 9-1-2017. (Annexure-9)</p> <p>7. Copy of CPIO's letter dated 7-2-2016. (Annexure-10)</p>
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BRIEF FACTS OF THE CASE

- (1) That the appellant has filed an application dated 24-08-2016 (**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 & Asst. Registrar (Excise) and Shri Mohinder Singh, DR (Customs & ST) & Deemed CPIO 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 and Assistant Registrar (Excise) has not provided the information as sought in Point (A) & (B) of the RTI Application. Therefore, he may be directed to provide the same within time bound frame.
- (3) That Shri Mohinder Singh, Dy. Registrar (Customs, Service Tax and Antidumping Branch) and Deemed CPIO, has not provided complete and correct information inasmuch as no information for Point (C) has been

provided.

- (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 : 17-02-2017

1715

**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. 12-07 (A)/2017

CPIO ID No. 11-130/2016

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 — 07/2017

Shri R.K. Jain submitted that for Point 'A' and 'C', the information pertains to Customs branch, after court cause list and the same is not provided.

2. The DR, Customs branch is directed to verify whether the information sought for has been provided, if provided intimate the date on which provided and if not provided, then provide the information within a period of four weeks from the receipt of this order.


(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.